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**THE FUTURE CHARACTER AND ROLE  
OF  
PEACE OBSERVATION ARRANGEMENTS  
UNDER  
THE UNITED NATIONS**

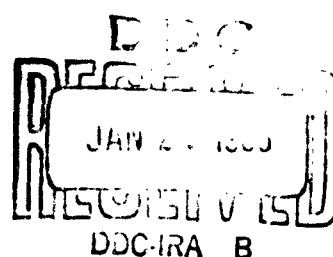
**SUMMARY REPORT**

**AND**

**SUMMARIES OF CASES**

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**Prepared**

**by**

**The Washington Center of Foreign Policy Research**

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This Summary Report and the Summaries of Cases are based on a Study prepared under contract ACDA/IR-34 for the United States Arms Control and Disarmament Agency

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## TABLE OF CONTENTS

### SUMMARY OF THE REPORT

Introduction	1
General Considerations	2
Future United Nations Peace Observation Machinery	23

### SUMMARIES OF THE CASES

Cases under the League of Nations	31
Cases under Inter-American Organizations and Procedures	83
Cases under the United Nations or Special Multi- national Arrangements	142

## SUMMARY OF THE REPORT

### Introduction

This Study is concerned with the methods and procedures that have been tried since 1920 in order to prevent threatening situations anywhere in the world from developing into international conflict, or, failing that, to circumscribe the conflict and prevent its spread.

The Study deals in particular with one method, now generally known as peace-observation (or sometimes as "fact-finding," "inquiry on the spot" etc.), whereby the organized international community initiates a third party intervention as early as possible in a threatening situation with a view to permitting calmer judgments to allay the potential or actual conflict.

This device has evolved as a result of the experience gained since 1920 when it first became possible to use it through the establishment of the League of Nations. Recent applications of peace-observation under the United Nations and the Organization of American States not only show how flexible this device is but also reveal some of the weaknesses and flaws the correction of which could greatly increase its effectiveness.

The basic conclusion of this Study is that the device has proved its usefulness, even under cold war difficulties, and that it is feasible to proceed to some further strengthening and development of peace-observation as one of the practical and important means of averting the universal dangers inherent in modern warfare.

#### General Considerations

The Outline of Basic Provisions of a Treaty on General and Complete Disarmament in a Peaceful World presented by the United States to the Eighteen Nation Committee on Disarmament on April 18, 1962, deals with the problem of peace-observation. The Outline proposes that in the First Stage of general and complete disarmament the parties to the treaty support the establishment within the United Nations of a Peace Observation Corps staffed with a standing cadre of observers who could be dispatched promptly to investigate any situation which might constitute a threat to or a breach of the peace. Elements of the Peace Observation Corps also could be stationed as appropriate in selected areas throughout the world.

The background for this proposal is the wealth of experience in the peaceful settlement of disputes developed initially in the League of Nations between the First and Sec-

ond World Wars and continued in the United Nations, the Inter-American System, and under special arrangements since the Second World War. Since 1920 peace-observation has played a role in more than seventy actual or potential conflict situations which have been analyzed in this Study. The precedents of the past shed substantial light in charting the future course of peace-observation: in what ways peace-observation has been employed, what practices have resulted in success or failure, and what elements of this vast experience have the greatest potential for the future. The United Nations has already profited from this experience and has consistently improved its operations over the years.

The purpose of this Study has been to analyze and evaluate the past precedents and to make recommendations for the future based on this past experience.

#### 1. Resources for Peace-Observation

This Study assumes that during the immediate future the most important instrumentality for peace-observation will continue to be the United Nations. The Security Council with its primary responsibility under the Charter for the maintenance of international peace and security is the organ which will generally but not exclusively authorize establishment of most of the peace-observation missions.

The United Nations General Assembly may also utilize

peace-observation in its efforts to obtain international peace wherever the Security Council is not exercising the functions assigned to it under the Charter. In some instances where Security Council action is frustrated by the veto of a permanent member of the Security Council, the General Assembly may wish to establish the peace-observation mission. However, it must be recognized that in many, but not all, cases where a permanent member of the Security Council is unwilling to support the peace-observation mission, its effectiveness might well be limited.

The Secretary-General will continue to have an increasing role in the initiation and application of peace-observation functions. Acting under the Charter and supported by precedent, he may himself initiate fact-finding and peace-observation missions. Ordinarily, however, he would not act without the consent of the Security Council except when requested to do so by all the parties concerned. Even in that event, he would not act without polling the members of the Security Council unless the mission were small in size, no financial drain on the Organization, and limited in its duration. The Secretary-General might also act in dire emergency where it is necessary to dispatch personnel to an area before the appropriate United Nations organ can take action.

We may anticipate that the Inter-American System will



continue its interest in maintaining peace in the Western Hemisphere and will successfully utilize the machinery provided both under the Inter-American Treaty of Reciprocal Assistance and the Organization of American States to accomplish this objective. Part of the strength of the OAS is the opportunity afforded to the Latin American countries to deal with disputes in their own way involving "face-saving" formulas, sentiment and flexibility of procedures.

Other regional groups such as the Organization of African Unity are likely to assume an increasing role in maintaining peace within their areas. On the other hand, the very unsatisfactory experience of using independent arrangements for peace-observation, as the International Control Commissions with their built-in "troika" operating in Southeast Asia, points away from this expedient.

## 2. Areas and Situations Suitable for Peace-Observation

In the period since the Second World War it has become apparent that peace-observation has been difficult to apply in situations where the problems endangering the peace amount to a direct cold war confrontation of the United States and the Soviet Union. In such cases the Soviet Union refuses to cooperate with the international mission which, as a result, is confined to on-the-spot observation from one side. However, such observation has served a limited objective both in Korea and in the Balkans, and a change of attitude on the

part of the Soviet Union should not be ruled out.

Future peace-observation missions are more likely to be dispatched to areas other than Europe. The type of situations where peace-observation could be effective include border clashes, disputes within a state which endanger international peace, grievances of minority parties where one or more powers are interested in the rights of the minorities, ethnic conflicts, and arms buildups which might upset the local or regional balance of security. In most of these situations we may anticipate that the Soviet Union and the United States will have different viewpoints. If their differences, however, are not sufficiently serious to amount to a direct East-West confrontation, it is probable that their mutual interest in averting a conflict will make peace-observation increasingly useful. A greater East-West détente should increase the number of possible situations where peace-observation might be effective as well as enhance the effectiveness of the individual missions.

In the Western Hemisphere, situations requiring peace-observation under the auspices of the Inter-American System will almost certainly continue to arise.

### 3. Establishment of Peace-Observation Missions

It is possible for the Security Council to find the existence of a threat to the peace, breach of the peace or act of aggression under Article 39 and to compel the parties to

permit peace-observation within their territories. However, as a practical matter, the Security Council has to date not made such a binding decision and there is no indication that this policy will change in the near future. Therefore, any ~~one~~ spot United Nations peace-observation is likely to be with the agreement of the parties, or one of them if the observation is to take place on only one side of an international boundary.

The Inter-American System cannot compel its members to grant access to or to cooperate with peace-observation missions, but can impose sanctions if a state fails to cooperate.

The agreement of the parties to peace-observation can be obtained in several ways. In the most usual cases the consent of the parties to the mission is achieved during the negotiations leading to a resolution of the Security Council or other organ establishing the mission. Obtaining agreement in this manner on an ad hoc basis, however, has a number of disadvantages. In an emergency situation the most important principle is that action to be effective must be prompt. The mission should proceed to the area where hostilities are threatened, in some instances before obtaining adequate agreement from both parties to permit its effective operation. Furthermore, in the essentially political negotiations leading to the establishment of a mission, patterns

of its organization and operation emerge which may not be conducive to its success.

Therefore, the practice has developed of obtaining, prior to the establishment of the mission, the maximum feasible agreement with subsequently negotiated status agreements defining the rights of the mission in the host territories. It would be desirable but generally not feasible to execute the status agreements before the mission proceeds to the area.

In the period since the Second World War as a result of increasing experience, the typical pattern for mission terms of reference has changed considerably. The League of Nations ordinarily granted to its commissions of inquiry broad authority to accomplish the objective of the mission. On the other hand, in its early years the United Nations occasionally made the terms of reference so specific as to exclude from the mission's jurisdiction important activities which it would be called upon to undertake. On other occasions the terms of reference were ambiguous and permitted the parties to raise technical challenges to the jurisdiction of the mission. The OAS terms of reference are almost invariably broad. Typically they permit peace-observation missions to exercise mediatory functions without mentioning them.

In recent years the United Nations organs have sought to follow the general practice of the League of Nations of stating the objective of the mission in broad terms. The

terms of reference additionally specify the anticipated activities of the mission so far as they can be foreseen, but the list of activities is not exclusive and the mission has residual authority to carry on other types of activities reasonable for its objectives. The terms of reference can be and occasionally have been changed while the mission is in the field.

It is especially important that the terms of reference set forth clearly the relation of the mission to the international organ which has established it.

In a disarming world it would prove advantageous to set forth in a treaty a form of advance consent by the parties for unimpeded access to peace-observation missions if the appropriate organ of the United Nations should deem their presence on the territory of any party to the treaty essential or helpful in maintaining international peace.

#### 4. Chief Tasks Associated with Peace-Observation

Under the United Nations, the peace-observation missions have operated under far more trying conditions than most of the commissions of inquiry under the League of Nations or than was foreseen for the United Nations missions at the time of the adoption of the United Nations Charter.

Under the League of Nations the typical commissions of inquiry had the single objective of investigating on the spot and reporting the facts to the League of Nations. This re-

sulted from the condition after the First World War where, until the challenges to the League by Japan in connection with Manchuria and by Italy in the Ethiopia case, no state was in a position to defy the decision of the Council or Assembly of the League. The missions were relatively certain that their reports and recommendations, therefore, would be implemented.

Under the United Nations the situation is quite different. In most situations of disorder there has been no agreement among the great powers and no United Nations decision to settle the controversy. In these cases the main function of the United Nations mission has been to reduce the violence. Obviously this has involved activities far beyond investigation and fact-finding.

In a few cases, as in that of Indonesian independence, an agreed objective had already been achieved. The primary function of the United Nations missions was to implement that objective. A part of the process of implementation was to reduce the amount of violence and disorder which in themselves were hindering the attainment of the agreed objective.

In short, in addition to the initial objective of investigating a controversy, finding the facts and reporting to the appropriate United Nations organ, most of the United Nations missions have been called upon to perform over a

considerable period of time a wide variety of quasi-military and quasi-political tasks in connection with peace-observation. In a summary of this length it is not possible to do more than list some of them.

The quasi-military tasks include: (a) establishment of cease-fires, truces and sometimes armistices to obtain cessation of fighting; (b) establishment of demarcation lines; (c) establishment of demilitarized zones on one or both sides of the cease-fire or demarcation lines; (d) observation of the demarcation lines to determine the responsibility for violations and to suggest the treatment of violations; (e) reporting on the disengagement of opposing forces and occasionally interposing between the forces to insure their disengagement; (f) observing and assisting in the withdrawal or demobilization of forces; (g) observing bans on the introduction of fresh troops or arms in an area or the establishment of military bases; (h) arranging for the exchange of prisoners of war and civilian internees.

Typical quasi-political tasks of peace-observation missions have included: (a) reporting on the political conditions existing in the area; (b) radio monitoring to determine the existence and extent of external interference in an area; (c) arranging for the exchange of civilian populations after the establishment of a boundary or demarcation line; (d) in a few instances arranging for the transfer of territory from

one state to another; (e) assistance in assuring the enforcement of treaty provisions guaranteeing democratic freedoms in an area; (f) supervision of national elections; (g) reporting on the observation of provisions in international treaties calling for the "neutrality" of an area.

Nearly all of these tasks were undertaken by various League of Nations missions with measurable success in the period 1920-30. In such cases as the Aaland Islands dispute, the Greek-Bulgarian crisis, and the Upper Silesian partition, its decisions were executed expeditiously and required less intensive supervision than has been necessary in many similar cases under the United Nations. The change in functions is reflected in the organizational changes for the United Nations missions.

In a general way the missions established under the auspices of the Inter-American System have not extended their functions in this manner but have confined themselves to a combination of investigation (usually through interrogating witnesses), fact-finding, mediation and good offices.

The International Control Commissions in Southeast Asia established by the Geneva Conference of 1954 but unrelated to the United Nations have had a variety of tasks similar to those set forth above for the United Nations missions.



5. Relation of Peace-Observation to Peace-Keeping and Mediation

In the Outline of the Basic Provisions of the Treaty on General and Complete Disarmament the proposals for "peace-observation" differ basically from those of "peace-keeping." The peace-keeping provisions envision a United Nations Peace Force which would be established in Stage II and strengthened to the point where it has such armed forces and armaments so that no state could challenge it. Even before Stage II, peace-keeping involves not only a vastly larger establishment than that required for peace-observation but also a totally different function.

Despite these fundamental differences it is sometimes difficult to draw a sharp line distinguishing between peace-keeping and peace-observation missions. The United Nations Emergency Force sent to Suez in its earliest stages had primarily peace-keeping functions. At present it has a combination of peace-keeping and peace-observation functions. The United Nations Operation in the Congo, while almost entirely peace-keeping, at one point had functions requiring a method of operation closely related to peace-observation. Furthermore, occasionally and for limited periods, it may be desirable for peace-observation missions to carry on typically peace-keeping functions such as interposing themselves between hostile groups. This has proven feasible provided

that such activities are not sufficiently extensive to destroy the symbolism which makes peace-observation effective - the mystique of a higher authority which states have agreed to respect in order to surmount in an orderly way the threats inherent in modern conflict. Thus, the tasks of a peace-observation mission may include some which are typical of peace-keeping.

Most of the missions operating under the United Nations have found it desirable also to have certain powers which may be described as mediation, conciliation or good offices. Under the League of Nations this problem ordinarily did not arise since the Council or Assembly of the League assumed the responsibility for mediating the disputes and utilized the commissions of inquiry mainly as its eyes and ears. Under the United Nations, however, both the Security Council and the General Assembly have ordinarily established subordinate groups to carry on the mediation functions. The sole question that arose was whether the peace-observation and mediation functions should be combined in a single mission.

In some cases such as Palestine the combination of the peace-observation and mediation functions might readily weaken the effective exercise of both functions. The political settlement is fraught with such difficulties that both parties are likely to resent any suggestion for a settlement, regardless of its motivation. Thus, if the peace-observation

mission had mediation functions, this might interfere with the establishment of the image of impartiality essential to successful peace-observation. In generalized terms, where an ultimate political settlement seems impossible to achieve except through high level political negotiations taking place at the capitals rather than on the spot, it seems desirable to separate the peace-observation from the mediation functions. This standard would apply both in situations where a great deal of violence exists in the area of hostilities and where the area is relatively tranquil and tensions are higher in the capitals than along the boundary.

On the other hand, where the general principles of a political settlement have been agreed upon, the chief problem is to implement the settlement. The peace observers are often in the best position to suggest the methods of implementing the political settlement and will not lose the confidence of either party through their suggestions since the final objective has already been determined. This is the clearest case for combining mediation and peace-observation functions.

It would likewise seem advisable to authorize the peace-observation mission to attempt to mediate at least localized political issues in situations where elimination of violence in the area seems more urgent than a political solution.

6. Organization of Peace-Observation

Since the Second World War and particularly in the last ten years, the Secretary-General of the United Nations has worked out a pattern for organizing peace-observation missions which is obtaining increasingly successful results. The chief characteristics of this pattern may be summarized as follows:

- (a) The peace-observation mission consists of a talented individual or a group of individuals rather than representatives of states. The individual has sufficient rank to deal with the highest authorities of the countries concerned. It may be advisable to select individuals from states which have not taken extreme stands on either side of the controversy. However, the individuals should be deemed to be servants of the United Nations, receiving their instructions from the Secretary-General and not from their governments.
- (b) It has proved very desirable on occasions for the Secretary-General to have an advisory group consisting of the representatives of appropriately selected states with which he can take counsel and give an accounting of his stewardship of the peace-observation mission. The advisory group device moreover strengthens the hand of the Secretary-General, acts

as a political lightning rod to absorb criticism of his administration, and obviates the necessity of convening the organ which creates the mission.

- (c) In larger missions there are three main sections:
  - (1) the military observer group; (2) the special advisers for political, legal and public information matters; and (3) the administrative personnel concerned with security, finance, transportation and communications.
- (d) The mission ought to report to the United Nations through the Secretary-General. This method of reporting has the dual advantage of expediting action by the United Nations organs on the most essential matters and of permitting the missions to maintain secrecy when this is desirable. A report directed to an organ of the United Nations would inevitably become public property. It is probably desirable for the chief of the mission to have the right of direct access to the organ establishing the mission.
- (e) Over the years it has become clear that the mission personnel should be as clearly identified as possible with the United Nations. Therefore, they wear United Nations arm bands, use the United Nations flag and their equipment is marked with the United Nations insignia. This has proved a protection to

for other peace-observation operations.

- (g) The United Nations has paid great attention to the problem of maintaining morale in its peace-observation missions. It has worked out techniques for receiving mail, for post exchanges, for rotating personnel and granting leave and for many other matters which contribute to a high morale. Status agreements wherever possible are executed with the host country to cover these matters. The morale problem is somewhat less in the case of personnel from UN Headquarters because of their greater experience in the tasks of international peace.

#### 7. Financing Peace-Observation

Three patterns have developed for financing the United Nations missions.

- (a) The expenses of most of the missions are met from the regular budget of the United Nations which is prorated among the members in accordance with the regular United Nations schedules for contributions by states. This system of financing peace-keeping operations, however, has given rise to one of the most serious crises now confronting the United Nations. Under Article 19 of the Charter any member owing more than the equivalent of two years' assessments shall have no vote in the General Assembly.

The Soviet Union, the biggest debtor, and several others have refused to pay the special assessments voted by the General Assembly for the Congo and Middle East operations and are now two years in arrears. France, which has also refused to pay her Congo assessments, is expected to be two years in arrears on January 1, 1965. France and the Soviet Union contend that only the Security Council and not the General Assembly may levy peace-keeping assessments notwithstanding an advisory opinion of the International Court of Justice to the contrary.

Because of the financial difficulties in which the United Nations finds itself, the other two methods of financing have been resorted to in certain recent peace-observation missions.

- (b) In connection with the missions in Yemen and in West Irian the parties agreed to share equally the total expenses of the missions. This arrangement is unsatisfactory in that either party can terminate the mission through denying it funds. The termination could easily come at a time when the presence of the mission was most essential.
- (c) The mission operating in Cyprus is financed by voluntary contributions from members of the United Nations. This is a practice that has been followed

for a number of years in connection with certain relief and technical assistance programs not directly related to the maintenance of international peace. The disadvantage of this practice is that ordinarily the large share of the financial burden will fall upon the United States. However, it seems to be the only feasible method for financing the peace-observation missions in cases where the Soviet Union refuses to participate in financing but is nevertheless not so opposed to the mission that it will veto its establishment by the Security Council.

It should be noted that in practically none of the missions has the United Nations paid the full expenses. Almost invariably, for example, the states furnishing military observers pay their salaries with the United Nations supplementing these payments through travel and allowances. Furthermore, as we have seen, the cost of large initial airlifts has generally been assumed by such countries as the United States and Canada. After the initial stage, air transport is furnished by governments on a reimbursable basis. In general, the percentage of the cost of financing the missions borne by the United Nations rather than states furnishing the contingents has consistently increased over the years.

#### 8. Termination of Peace-Observation

Ordinarily a peace-observation mission should terminate



at the latest when the controversy leading to the disturbance of the peace has been solved. In some cases, progress towards solution of the controversy may result in the elimination of violence at an earlier date.

The continuance of a mission for a long period of years is a drain on United Nations resources. Furthermore, experience has shown that the prestige of a mission tends to erode after years of operation with little progress towards political settlement. Some missions once they are established have a tendency to continue even after the necessity for the mission has lessened or has disappeared completely. One reason for this phenomenon is that vested interests in the continuance of the mission have a tendency to develop not only among the mission personnel but among the government personnel of the states parties to the controversy. Furthermore, it may be easier to continue the mission than to obtain a United Nations decision abolishing it. There is no easy formula applicable in all situations for solving such problems.

There seems to be little reason for incorporating in the terms of reference for the mission a time limit or even a target date for the completion of its work unless there is reasonable probability that the time limit can be met.

9. Relation of Peace-Observation to Disarmament

While historically the United Nations efforts to develop peace-observation techniques were independent of the disarma-

ment and arms control negotiations until April of 1962, there is no basic reason for such a separation which arose largely as a result of historical accident. Perhaps the earliest area of accord by the Soviet Union and the United States in the field of arms control was the recognition by both states that political settlements were not a pre-condition for agreements on arms control nor were agreements on arms control a pre-condition for political settlements. Negotiations should proceed simultaneously on political settlements and arms control in recognition of the fact that progress in either area would assist progress in the other area. Recent developments, particularly in connection with Cyprus and Yemen, have apparently revealed increasing community of interest between the Soviet Union and the United States in dealing with situations where peace-observation can be helpful. Peace-observation may be one of the more promising areas for accord between the United States and the Soviet Union.

#### Future United Nations Peace-Observation Machinery

During the eighteen years since the establishment of the United Nations, the Secretary-General as a result of experience in connection with such missions has been able to reduce materially the amount of improvisation required to organize and carry on a peace-observation mission. In the first two or three years of the United Nations, each mission had to be

organized from scratch. The Secretary-General has progressed a long way from those days of complete improvisation. For example, in West Irian he was able to organize and send a small group to the site within forty-eight hours. In the Congo he was able within two to three months to organize a large-size peace-keeping operation.

Even with maximum progress in improving peace-observation operations and even in a more favorable international climate it is unlikely that the United Nations will be sufficiently organized to eliminate improvisation. The types of situations requiring peace-observation are so varied and the areas in which missions operate are so different that it would probably be impossible and certainly extravagant to have immediately available and ready for assignment all the varied types of skilled personnel and to stockpile all the supplies required for peace-observation in all areas of the world.

The effort to improve peace-observation is likely to be in the direction of reducing the need for improvisation. In general, four alternative methods of dealing with the problems of peace-observation are possible.

First Alternative: Observers Assembled Ad Hoc

The first is the creation of a distinct peace-observation group for each individual crisis as it arises. This is the ad hoc method which in the main the Organization presently

employs. While improvisation has been somewhat reduced through advance knowledge of the types of personnel and logistic support that will be required, nevertheless the United Nations under this method has to improvise to obtain most of its requirements both for personnel and for logistic support. Furthermore, it cannot be assumed for the future that experienced personnel will always be available in existing missions such as UNTSO for transfer to new situations.

Second Alternative: Observers Earmarked by Various States

Under the second method various member states would identify officers (five to fifty) in their own military establishments to be specially trained for peace-observation work and to be placed at the service of the Organization as the occasion arises. Under this method the Organization in the event of need, emergency or otherwise, would know what to count on and could plan accordingly. At the same time the cost of maintaining these earmarked officers would be borne by various member states and not until they were brought into the service of the United Nations would any sizeable United Nations expenditures be incurred with the possible exception of a small increase in the size of the United Nations Secretariat in New York to service this system and perhaps to provide a certain amount of United Nations training for the earmarked officers.

Third Alternative: Earmarked Observers and a Small Cadre of  
Observers at Headquarters

The third alternative involves earmarking and training of peace-observation officers in the military establishments of the various member states plus providing a small number of military observers recruited and trained by the United Nations Secretariat who, as international civil servants, could act as cadres in peace-observation missions. The formation of such cadres would require some expansion of the civilian element of the United Nations Secretariat - both in the Field Service and in UN Headquarters. It would, therefore, involve somewhat greater expenditures than the previous alternatives. However, the existence of a small permanent United Nations group concentrating on peace-observation and linked to earmarked officers in various states would be a major step in avoiding the haphazard and improvised direction that has marred the operations of a number of missions, and in assuring the speedy and efficient organization of missions as the need for them arises. The cadre would soon acquire the techniques and skills, and above all, the attitude so necessary for handling with success the delicate situations which constantly and inevitably arise in peace-observation missions. The existence of such a cadre would facilitate the organization of specific missions as intermingled groups rather than as separate national units, a framework that has many advan-

tages. It may be that in the existing political environment, this is the maximum step forward which would receive the necessary support from the Soviet Union and from the membership of the United Nations.

Fourth Alternative: A Standing United Nations Peace Observation Corps

A fourth alternative, however, if it were politically and financially feasible, might produce better results. This would be the establishment of a standing United Nations Peace Observation Corps whose personnel would be international civil servants, recruited, trained and financed by the United Nations and under its full control at all times.

The United Nations Peace Observation Corps could range from 250 to 1,000. Even if the larger figure were attained, this probably would not be sufficient to cover the personnel requirements of several large missions operating simultaneously. However, if such a Corps were in existence, the Secretary-General could far more rapidly and efficiently supplement the Corps in order to set up further missions.

This fourth alternative differs greatly from the present organization of peace-observation. It would receive its charter from a basic resolution preferably of the General Assembly, outlining in broad terms the range of its functions and activities, with its commander to be appointed by the Secretary-General and responsible to him. However, the spe-

cific terms of reference of any mission utilizing the Corps would be by the UN organ - Security Council or General Assembly - establishing the mission. The Secretary-General would arrange for dispatching the Corps to the area under a chief of mission appointed by him. The Corps would fly the United Nations flag, wear distinctive UN uniforms and mark its equipment with UN insignia.

The estimated costs for three different sized corps are:

<u>Number of Military Personnel</u>	<u>Major Equipment Purchase Cost (Non-recurring)</u>	<u>Annual Operating Cost</u>
267	\$4,755,667	\$4,376,124
516	8,904,151	8,347,938
1002	17,808,302	16,695,876

These costs do not include the civilian personnel accompanying the mission such as the political adviser, the public information officer, the legal adviser, and others.

It would be advisable to authorize the Secretary-General to set up an advisory committee of representatives of UN member states with whom he would consult on planning and operation of the Corps. This would be in addition to advisory committees working with him on specific missions.

The existence of the Corps would permit far more extensive and specialized training than would be possible under other alternatives. The tasks of a peace-observation mission

are both quasi-political and quasi-military. Therefore, the training curriculum in addition to the more usual military instruction would include such matters as the role and philosophy of the United Nations in maintaining international peace, the relation of an international group to a host country and the problems of negotiation and conciliation, and the techniques of fact-finding and reporting. The General Assembly under resolution 1827 (XVII) is planning to establish a United Nations Training and Research Institute which could provide a focal point in the training and indoctrination of peace observers.

The establishment of such a Corps would require the existence of a small permanent United Nations military staff located at Headquarters. The Secretary-General of the United Nations already has a military adviser stationed at United Nations Headquarters, who has several assistants. The expansion of the office of military adviser should be quite moderate in the event of the establishment of a Peace Observation Corps. Likewise, the equipment of the Corps would require merely an expansion of existing arrangements to equip specific missions as they are formed.

We suggest that under this method it would be possible for the United Nations to improve greatly the effectiveness of its peace-observation operations at a minimum cost. It would be desirable to follow this method provided interna-



-30-

tional political conditions will be such that proposals along this line receive the necessary support from the membership of the United Nations including the Soviet Union.

## SUMMARIES OF THE CASES

### CASES UNDER THE LEAGUE OF NATIONS

#### 1. Controversy Between Sweden and Finland over the Aaland Islands, 1920

##### Background

Until 1809 Finland, including the 300 islands of the Aaland archipelago, belonged to Sweden. In 1809 Napoleon forced Sweden to hand the territory to Russia which ruled it until 1917 as one administrative unit. In 1918 Finland declared its independence which was formally recognized by Sweden without reservations re the islands which are geographically nearer to Sweden than to Finland and whose 27,000 inhabitants are ninety-five per cent Swedish in culture and language. A strong movement for union with Sweden began in 1918, and in June 1920 Finland felt it necessary to land troops on the islands to offset this pro-Swedish agitation and maintain its sovereignty. Sweden felt obliged to support the pro-Swedish islanders, and war seemed imminent.

##### The Issue

In July 1920 Great Britain took the initiative, as a "friendly right," to bring the threatening situation before the Council in order to determine whether Sweden or Finland should have sovereignty over the Islands.

### Terms of Reference and Composition of the Commission

The Council, after establishing its competence which had been challenged by Finland, decided to appoint a Commission of Enquiry "to make a thorough study of all points involved taking into full account the legitimate interests of every party to the dispute."

Three persons of eminence were appointed: Baron Beyens (former Belgian Foreign Minister), Felix Colonder (former President of Switzerland) and Abram Elkus (former U.S. Ambassador to Turkey). The Commissioners were all persons whose nationality made them disinterested in the case, and they were exclusively answerable to the Council and not to their governments.

### Operation and Performance

The Commission spent six weeks in Sweden, Finland and the Aaland Islands. In their report they went thoroughly into the history of the relations of the Islands with Finland and how they had been governed as a separate administrative unit with much local autonomy. They concluded that the Islands should remain under Finnish sovereignty, that no plebiscite in any form should be conducted, and that the League should provide guarantees for the Swedish national minority.

The Council approved the essentials of this report, which was reluctantly accepted by both Sweden and Finland.

The six months cooling-off process had served to defuse the issue.

Conclusions

1. The initiative of a third party, Britain, and the establishment of the Council's competence in a matter held by Finland to be purely domestic set precedents for international action which have continued to the present. The case was dealt with before it became unmanageable.
2. The rejection by both the Commission and the Council of the request by Sweden and the Aalanders for a plebiscite showed the practical limits of self-determination which, if applied generally to the new map of post-war Europe, would have produced instability and chaos.
3. The counter-balancing provision of minority guarantees proved in this and later cases that a via media could be found between self-determination and unqualified national sovereignty.
4. The prestige of the Commission and the excellence of its report were factors supporting general acceptance of the report even though it was uncongenial to both parties.

## 2. Conflict Between Lithuania and Poland, 1920

### Background

Both Poland and Lithuania, though separate peoples, had been tributaries of Russia until 1919 when the Supreme Allied Council set the provisional boundaries of each state in a way which left Vilna to Lithuania. Poland, still at war with Russia, did not contest the award.

The Russians pushed the Poles back nearly to Warsaw and on the way occupied Vilna without Lithuanian resistance. A Polish counter-offensive drove the Russians eastward and out of Vilna which the Lithuanians promptly reoccupied. A weakened Russia now made a treaty with Lithuania giving Vilna to her. This incensed the Poles who, having driven the Russians out of Vilna, claimed it. In September, 1920 Poland appealed to the League to decide the future of Vilna, but in October the collapsing Russians made a treaty with Poland giving Vilna to her after having given it to Lithuania three months earlier.

Both Lithuania and Poland had forces in the disputed area and war seemed imminent. The League Council found a provisional solution whereby both sides would move their forces back four miles from the provisional boundary (Curzon line) pending a determination of the boundary. A League Military Commission would oversee the agreement on the spot.

The military party gained control of the government of Poland, and before the League agreement could come into effect Polish General Zeligowski led a band of irregulars into Vilna where fighting ensued. The Military Commission finally secured an armistice establishing neutral zones. Both Poland and Lithuania agreed that a plebiscite should be conducted in Vilna but the League held that no plebiscite could be held until Zeligowski's irregulars had evacuated the city.

In December 1920 the League set up a Civil Plebiscite Commission which, supported by an international force of 1,500 men organized under Marshal Foch, was to take over the situation from Zeligowski. However, Lithuania objected, and the plebiscite arrangements were delayed for more than a year while the Council made fruitless efforts to find a solution acceptable to both parties. The Council of Ambassadors<sup>1</sup> finally recognized the de facto situation and Vilna went to Poland.

#### The Issue

The issue before the Council was (1) how to avert outright war over Vilna, and (2) how to remove the Polish irregular forces and set up a plebiscite arrangement so that Vilna could freely decide whether to join Poland or Lithuania.

#### Terms of Reference

The terms of reference of the Military Commission were to insure the observation by Poland and Lithuania of their agreement to cease hostilities and withdraw their forces behind the

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<sup>1</sup> See footnote on p. 27 of Appendix I.

provisional boundary. The Civil Plebiscite Commission was to see to the replacement of the Polish irregulars in Vilna by the international force and supervise the plebiscite to determine Vilna's future.

#### Operation and Performance

The Military Commission succeeded in averting outright war. It secured an armistice and established neutral zones between the contending forces. It failed to bring about the situation wherein a plebiscite could be held to determine the future of Vilna without pressure.

#### Conclusions

1. Unlike Sweden and Finland in the Aaland Islands case in 1920, neither Poland nor Lithuania was willing to assist the League Council in finding a peaceful and just solution to their rival claims over Vilna.
2. War on a wider scale was prevented by a League Military Commission which successfully separated the contending forces. The first important post-war establishment of neutral zones was successfully instituted.
3. French support of her Polish ally, and non-support of the League effort by the United States, together with Russian hostility to the League, left England without sufficient backing to influence the situation toward a League solution.
4. Failure of the League in the Vilna case tended to diminish and weaken the League position in subsequent cases brought before it.

### 3. The Saar Territory: International Administration and the Use of an International Force, 1920-1935

#### Background

In 1920 the Saar was placed under an international Governing Commission for a period of fifteen years during which France was to work the coal mines, partly as payment for war damage to French mines, and partly as a payment on the reparations account. The Governing Commission administered the territory under the supervision of the League Council. The Commission's five members were French, Belgian, Danish, Canadian and Saar nationals who were appointed by the League Council. After fifteen years a plebiscite was to determine whether the territory was: (1) to return to Germany, (2) to become part of France, or (3) to continue under League governance.

The population, being German, objected to French rule. Therefore, the Council placed the Saar under League supervision but made trouble for itself by appointing a French chairman who was anything but neutral. Later the situation was improved by rotating the chairmanship.

Before 1933 no one doubted that the population would opt for Germany. But with the advent of Nazi rule the situation changed. Threats and a Nazi force of 16,000 men near the Saar border made it necessary for the Council to take precautions. Accordingly, an international force of 3,300 men -



the first of its kind - was organized to help the Saar police maintain order during the plebiscite period.

A year before the plebiscite was to take place, the League Council appointed a committee of three of its members to organize all the arrangements. An international Plebiscite Commission and a Supreme Plebiscite Tribunal conducted the plebiscite which resulted in the return of the territory to Germany.

### The Issue

The issue was: (1) how peacefully to govern and maintain order in the Saar territory which was taken away from Germany in 1918 and, (2) how, fifteen years later, to provide for a plebiscite to determine the future of the territory.

### Terms of Reference

#### 1. Terms of Reference of the Governing Commission:

The Commission had all the powers which formerly were exercised by the German authorities. It appointed and recalled officials; operated and controlled railways, canals and other public services; constituted such administrative and representative bodies as deemed necessary; administered justice; levied taxes; and exercised all powers of government subject only to the supervision of the League.

#### 2. Terms of Reference of the International Force:

The international force, composed of 1,500 British, 1,300 Italian, 250 Dutch and 250 Swedish infantrymen, had the

duty of complying "with such requests as may be made. . . by the Chairman of the Governing Commission for the intervention of the force for the purpose of maintaining or restoring order."

General Brind, the British Commander-in-Chief, also received from the Army Council in Great Britain certain notes for his guidance. The task of the force was "to ensure the maintenance of order . . . if and when in the opinion of the responsible civil authority the local police forces are inadequate for the purpose." Their duties were "in aid of the civil power" as in Britain.

#### Operation and Performance

1. The pro-French action of the Governing Commission, especially of its French chairman, got the Commission off to a bad start, and the Council did nothing to correct it until 1925. This led to rotation of the chairmanship.
2. The supervision of the Council was at first perfunctory but was later made effective by instituting the rapporteur system.
3. The Commission only became fully effective when it set up and used advisory and technical bodies made up of Saarlanders.
4. The plebiscite, which had to assure the "freedom, secrecy and trustworthiness of the voting," was arranged and held under Nazi threats and pressures. A Council committee

- worked for a year on its preparation, setting up a Plebiscite Commission, a Supreme Plebiscite Tribunal and eight District Tribunals. The tribunals functioned for a year and dealt with some 100,000 complaints of irregularities.
5. An international force of 3,300 men, the first of its kind, was sent to the territory to assist the police in maintaining or restoring order. Its efforts were completely successful in winning over a sullen population.

### Conclusions

1. Experience showed that if political circumstances had permitted, the Governing Commission should have been composed of more detached and neutral members.
2. The Saar international force was ad hoc, recruited entirely from Europe and commanded by a British general. It succeeded in its task - maintenance of order. The experience of this international force, the first of its kind, provoked questions on its composition, organization and administration. Although no French troops were included (France being directly involved) should not a part of the force have been drawn from outside Europe? Should contingents generally be kept in their national formations? Can there be equality of treatment in paying the "away from home differential" as was tried in this case?
3. It may be noted that the Saar forces were not to be used except on request of the competent civil authority (the

chairman of the Governing Commission, or the director of the interior, or the police president or other competent police officer). However, in exceptional circumstances involving danger to life or property the local military commander was authorized to "take such immediate action as he may deem necessary for the protection of life and property."

#### 4. Albania's Territorial Dispute with Yugoslavia and Greece, 1921

##### Background

Albania had only existed as an independent state since 1913. Her frontiers with Yugoslavia, Greece and Italy were not completely delimited at the end of World War I, and large areas of her territory were occupied or claimed by these neighboring states. These boundary questions were to be settled by the Conference of Ambassadors appointed in 1919. The Ambassadors, however, procrastinated while encroachment led to skirmishes and violent outbreaks between Albania and her neighbors.

Albania finally appealed to the League Council in April 1921 to settle her frontiers and free her territory from foreign occupation, but the Council took no direct action. Albania again appealed to the League in September, this time to the Assembly. The Assembly requested the Council to send a Commission of Enquiry to report on and supervise the forthcoming decision of the Conference of Ambassadors.

##### The Issue

The issue before the League was: (1) to secure Albania's protection from invasion and occupation by neighboring forces, and (2) to get her frontiers restored and delimited.

##### Terms of Reference of the Commission of Enquiry

The Commission was to report on the situation and to supervise the execution of the decision which the Conference of

Ambassadors finally made in November 1921, namely, that the frontiers of Albania were to be those originally laid down in 1913 with three minor rectifications in favor of Yugoslavia. The exact terms were that:

1. The Commission shall keep the Council informed of the retirement of both the Serb-Croat-Slovene and Albanian troops from the provisional zone of demarcation provided for in the decision of the Conference of Ambassadors of November 18th, 1921; it shall keep in touch with the Delimitation Commission whenever necessary and shall place itself at the disposal of the local authorities to assist in carrying out the evacuation so as to avoid incidents.

2. The Commission shall satisfy itself that no outside assistance is given in support of a local movement which might disturb internal peace in Albania. The Commission shall examine and submit to the Council measures to end the present disturbances and to prevent their recurrence.

#### Operation and Performance

The Commission of Enquiry went to Albania in November 1921 and continued its task until April 1923 when it made its final report.

As Yugoslavia did not immediately withdraw its troops, the Commission was instructed by the Council to see that the Yugoslav evacuation and the Albanian reoccupation would be carried out peaceably and in order. Yugoslavia only withdrew its troops after Britain urged the Council "to apply economic sanctions to the aggressor." On December 20, 1921 the Commission reported that the evacuation had been completed.

The Commission worked in close cooperation with a Delimitation Commission of four members set up by the Conference

of Ambassadors to trace the exact frontier. The Commission of Enquiry was to oversee a demarcation zone twenty-five miles wide from which all troops were to be withdrawn in order to give the Delimitation Commission full freedom of action.

#### Conclusions

1. Delays in the early stages of this dispute resulted from procrastination of the Conference of Ambassadors in fixing the frontiers.
2. The Commission of Enquiry got to the scene only six months after the initial request - too long a delay for prompt results.
3. The Commission's terms of reference were specific and clear. In addition to overseeing the withdrawal of troops, it was charged with preventing outside assistance from being given to the Yugoslav and Greek occupying forces.
4. The establishment of a broad demarcation zone from which all troops were excluded facilitated the task of the Commission in supervising troop withdrawal.
5. The threat of economic sanctions against Yugoslavia had the effect of producing action.

## 5. Partition of Upper Silesia

### Background

In 1919 both Germany and Poland claimed Upper Silesia with its vast mineral and industrial wealth. Their claims were based on both historical and ethnographic grounds. The Peace Conference, after hearing both claims, decided that the rival claims should be settled by a plebiscite.

An Interallied Commission supported by an international force was set up to ascertain the wishes of the people. The Commission was composed of French, British and Italian members and supported by a force of 13,500 troops. The plebiscite resulted in thirteen of the seventeen districts opting for Germany. The dissatisfied Poles raised an irregular army and overran a large part of Silesia. England and Italy were sympathetic toward Germany, and France sided with Poland. The dangerous situation was sensed, and the Interallied Commission disbanded the Polish irregulars. The Supreme Allied Council handed the affair over to the League Council for settlement in August 1921.

### The Issue

The issue before the Council was how the frontier should be drawn so that the rich resources and the intermingled population of Upper Silesia would be divided in a way to terminate the dispute between Germany and Poland.



### Terms of Reference

The Council appointed a Mixed Commission and a Court of Arbitration to reside in Upper Silesia for fifteen years to smooth out difficulties and settle disputes arising out of the Council plan. The plan provided that: (1) the disputed area should be so divided that each side would have a share of the mineral deposits, (2) for fifteen years the public utilities - railroads, water and electric power - would continue to operate for the area as a whole with uniform rates and (3) the population should be divided as reflected in the plebiscite. The Commission was composed of an equal number of Germans and Poles, with a neutral chairman appointed by the League.

### Operation and Performance

Though this complicated plan was not popular with either Germany or Poland when announced, it soon was found to be working well, and it became recognized as a most successful achievement.

### Conclusions

1. The Interallied Plebiscite Commission was so composed as to cast doubt on its objectivity and impartiality. Its chairman was openly partial to one side.
2. The national components of the interallied force were not properly balanced. The force was drawn too largely

from one source - French - and other troops had to be brought in later to give the force a more international character.

3. An acceptable solution was found only when the case came before the League Council - where persons and nations of greater detachment and objectivity were brought into the operation, notably Viscount Ishii, the Japanese member of the Council.
4. The success of the League in this case went far to offset the debacle in Vilna, and it enhanced the League's prestige enormously.

## 6. Corfu: Dispute between Greece and Italy, 1923

### Background

In 1923 the Delimitation Commission appointed by the Conference of Ambassadors was at the frontier between Albania and Greece which involved areas claimed or coveted by Yugoslavia, Greece and Italy. On August 27, General Tellini, the Italian member of the Commission, and four aides were murdered while on the Greek side of the frontier. Although the nationality of the assassins was never learned, Mussolini issued an ultimatum to Greece and occupied the Greek island of Corfu as a reprisal.

Greece promptly asked the League Council to consider the dispute, under Covenant Articles 12 and 15 relating to disputes of a grave character which could not be settled by diplomatic means. Greece undertook to accept the Council's decision, but Mussolini held that the question was one of national honor which precluded it from being considered by either the Council or the Conference of Ambassadors. He threatened to withdraw from the League if the case were considered by the Council. Many League members, particularly the smaller ones, were shocked and indignant at this brutal attack by a great power on a small one and insisted that the League take action on the issue.

The Conference of Ambassadors, one of whose appointees was the victim of the assassination, also decided to intervene, and Mussolini conceded that the case might be dealt with by it. Greece also consented to accept the conclusions of the Conference. Thus, two agencies became simultaneously involved in the case, and Greece became liable to accept two different results.

The Conference of Ambassadors instituted an inquiry by a commission composed of British, French, Japanese and Italian members. The Greek proposal to appoint a certain number of neutral representatives was not acted upon.

The Council, in these circumstances, reluctantly decided to adjourn for a few days while the Ambassadors conducted their inquiry. By informal meetings between the two bodies, it was hoped that the inquiry could be conducted so that neither organization's competence would be questioned.

#### The Issue

The task before the Council (and the Conference of Ambassadors) was to secure the Italian evacuation of Corfu, and to bring about a just settlement of the dispute.

#### Terms of Reference

The Commission was instructed to collect the evidence of the assassination, fix the responsibility and assign the penalty.

### Operation and Performance

The Council and the Conference of Ambassadors had previously agreed that Greece, on whose soil the assassinations had taken place, was sufficiently responsible, perhaps through negligence, to require her to make apologies to the Delimitation Commission, not to Italy. She was also required to deposit 50,000,000 lire in a Swiss bank for payment to the injured party. The exact amount of the payment was to be determined by the Permanent Court at The Hague.

The Commission made a preliminary report within a few days which stated (1) that the crime was planned in such a way that it could only be regarded as a political crime, and (2) that the Greek investigation of the crime showed "several instances of negligence," but (3) that the facts were not sufficiently complete and conclusive to enable the commissioners to decide upon the Greek Government's responsibility.

Nevertheless, on receiving this preliminary report, the Conference of Ambassadors decided there was enough evidence to justify handing over the 50,000,000 lire to Italy without waiting for the Permanent Court to fix the amount.

The next day Italy evacuated Corfu, and the peace was saved.

### Conclusions

1. Jurisdictional conflict beclouded the responsibilities and the resultant action. It especially weakened the

authority of the Council and alienated the necessary public support for a successful outcome.

2. War was averted by requiring the small power to yield to the greater, and many League members felt that a grave injustice had been done to Greece.
3. The whole affair was handled in an unneutral manner.
4. For a time the danger of a retrograde step in international law existed - recognizing "that states are responsible for outrages committed in their territory" even when no negligence or complicity had been proved.
5. The almost universal condemnation of Italy expressed in the Assembly and Council of the League had a sobering effect on Italy which led to withdrawal from Corfu. The majority of League members rejected the Italian contention that a state has the right to occupy territory in order to bring an adversary to terms.

## 7. The Question of Memel, 1919-1924

### Background

In January 1923 Lithuania took forcible possession of Memel which had been taken from Germany in 1919 and placed temporarily under Allied sovereignty. The coup took place when the Allies hinted that Memel might be made a Free City like Danzig. Both the German population and Poland, whose commerce went through Memel, opposed the coup, and trouble was threatening. The Allied Powers thereupon brought the matter before the League Council which decided that a fresh start should be made to settle the question.

### The Issue

The task before the Council was (1) to provide a status for Memel which would satisfy the interests of both Lithuania and Poland and (2) to protect the rights of the German population, who would become Lithuanian subjects.

### Terms of Reference

A Commission of Enquiry consisting of Norman Davis (former U.S. Under Secretary of State), A. G. Kroller (Dutch Economic Counsellor) and M. Hoernell (of the Swedish Academy of Technical Science) was appointed "to carry out a comprehensive study of the draft conventions submitted on both sides and of all existing factors which, when known and duly appreciated, may further the solution of the problem."

### Operation and Performance

The Commission prepared a convention which defined the rights which the Poles and other users of the port would have, particularly the right to float timber down the Niemen River. The convention after having been approved by the Council was agreed to by Lithuania and the Principal Allied Powers. Three annexes provided for an administration of the port through a harbor board which fully protected the rights of Poland and other users while respecting Lithuanian sovereignty.

The work of the Commission was partly fact-finding and partly mediatory.

### Conclusions

1. Although five years had elapsed while the Memel question was left unsettled, the Commission was able to devise an acceptable solution within five weeks.
2. The technical aspects of the problem were made the central feature of the report, viz., provision for an efficient administration of the port and guarantees for the interests of all users. Thereafter the political arrangements were more readily accepted.
3. The competence and impartiality of the Commission impressed all parties.



8. The Mosul Affair: Frontier Dispute between Turkey  
and Iraq, 1924-1925

Background

Iraq, with British encouragement, broke away from Turkey in 1914 when the latter announced its support of Germany at the beginning of World War I. After the war the Supreme Allied Council made Iraq into a class A mandate and provisionally recognized its independence. Shortly after Emir Faisal was made King of Iraq, troubles were stirred up by the Turks in the northwest sections of the country, especially in the vilayet of Mosul where many of the Kurdish tribes were friendly toward Turkey. In 1923 British and Iraqi forces broke the resistance of these tribes to Iraqi rule, and order was restored in Mosul.

The Allies were meantime negotiating a treaty of peace with Turkey at Lausanne, but no agreement could be reached on the future of Mosul. Therefore it was stipulated in the treaty that "the frontier between Iraq and Turkey should be laid down" by Britain and Turkey, but if they could not agree within nine months, the dispute should be referred to the Council of the League, which was done in August 1924.

The Issue

The issue before the Council was to determine whether the province of Mosul should become a part of Turkey or

remain attached to Iraq. The disputants were Britain, acting as mandatory for Iraq, and Turkey. Mosul comprised an area of 29,000 square miles with a mixed population of over 300,000 Kurds, Turks, Arabs, Christians and Jews. It was believed to be rich in oil. The controversy led to threats of military action and the issuance of an ultimatum, and war seemed probable several times during the protracted dispute.

#### Terms of Reference

The Council appointed a Commission consisting of M. de Wiersen, Swedish Minister (chairman); Count Teleki, geographer and former Hungarian Prime Minister; and Colonel Paulis, retired officer of the Belgian Army.

The three-member Commission was instructed to gather data on the dispute and study the views of each side. The Commission, unlike previous Commissions of Enquiry, requested each side to appoint an assessor with expert assistants and interpreters to accompany its investigations. This innovation, as will be seen, did not prove to be an altogether happy one and was not repeated in later cases until the Manchurian case in 1931.

#### Operation and Performance

The Commission began its investigation in November 1924 by ascertaining the British Government's views in London. It then went on to Ankara to get the Turkish side of the question. After that it visited Baghdad, and from there it went

to the vilayet of Mosul and visited all parts of the area. The members talked freely with all classes of people and tried to ascertain whether they preferred to be part of Turkey or Iraq. Economic and social conditions were also thoroughly examined.

The British High Commissioner charged that the Commission had employed armed pro-Turk escorts, and that natives employed as interpreters were, in fact, pro-Turk political agitators. He asserted that the form of inquiry used "threatened seriously the authority of the British and Iraq Governments throughout the disputed area." The chairman of the Commission of Enquiry indignantly rejected these charges and said that the Council had entrusted the Commission with power to adopt its own procedure. Therefore, it was inadmissible to reopen this question.

The Commission proceeded to make its investigation in its own way. There was no further disturbance; the visits to the towns took place without incidents; and after completing its work on the spot, the Commission proceeded to Geneva to write its report.

#### Conclusions

1. Too many delays and much lost time, caused by the lack of cooperation between the parties, seem to characterize this case.
2. The use of assessors, named by the parties to accompany

the Commission, proved to be a disturbing element.

3. Unnecessary and inappropriate interference by the British High Commissioner failed to deflect the Commission from its task as set down by the Council. This proved that a well-selected commission can function objectively and effectively even when one or more of the interested parties is critical and uncooperative.

## 9. The Greek-Bulgarian Crisis, 1925

### Background

The frontier between Greece and Bulgaria was the scene of frequent incidents between 1920 and 1925, especially since a large number of Greek refugees from Turkey had been settled near that border. On October 19, 1925, shots were exchanged between Greek and Bulgarian sentries, involving several casualties. After a Greek officer carrying a white truce flag was killed, prolonged firing and a movement of troops began. Both sides were angry and full of fight.

The Greek Government, instead of laying its case before the League, decided to invade Bulgaria which it did on a twenty-five mile front. At another place Bulgarian troops were reported to have crossed the Greek border. A Balkan war appeared in the making.

On October 23 the Bulgarian Government wired the Secretary-General, requesting an immediate meeting of the League Council, adding that the Bulgarian troops were instructed to fall back and not offer resistance to the advancing Greek forces some of whom had penetrated Bulgarian territory by as much as thirty miles.

The Secretary-General exercised one of his rare powers (Article 11, paragraph 1) and summoned a meeting of the Council and, after consulting with Acting Council President Briand, fixed the meeting for October 26 in Paris. Briand,

on the same day (October 23) and on his own authority before the Council met, took the unprecedented action of sending identical telegrams to both governments reminding them of their Covenant obligations and exhorting them "to give immediate instructions" to make no further military movements, and to retire their forces behind their respective frontiers.

Briand's telegram was sent to all members of the League, and given to the press. It was afterwards found that this telegram played a decisive role since it was dispatched by the Athens government to the scene of hostilities just two and a half hours before the Greek army was scheduled to attack with over 1,000 men.

Three days later on October 26, the Council met and approved Briand's action. Although hostilities had ceased, the situation was still tense with some skirmishing going on. As it was not clear how the withdrawal of troops was proceeding, the Council requested both governments to inform it within twenty-four hours as to the orders given for troop withdrawal, and to inform it within sixty hours that all troops were withdrawn.

To oversee this withdrawal the Council requested the British, French and Italian Governments immediately to send their military attachés in Belgrade to the spot, and three days later they reported that the withdrawal had been completed. The Greek troops were withdrawn eight hours before

the sixty-hour time limit.

When the Council was assured that hostilities had ceased, it proceeded to appoint a Commission of Enquiry "to establish the facts, prevent further violence, and make recommendations for fixing responsibility." The military attachés remained to help the Commission, thus making a group of eight.

The Council had refused to listen to arguments, explanations or justifications until assured that hostilities had ceased.

#### The Issue

The issue before the Council was (1) to bring about an immediate cessation of hostilities between Greece and Bulgaria, and (2) subsequently to institute an inquiry on the spot in order to ascertain the facts and responsibilities, prevent further violence, and, if necessary, fix the amount of reparations due.

#### Terms of Reference

The Commission was requested to establish the facts enabling the responsibility to be fixed, and supply the necessary material for the determination of any indemnities or reparation. The instructions also asked that the Commission submit recommendations for the solution of the dispute.

#### Operation and Performance

The Commission got to the scene within two weeks and

completed its work in three weeks. Its fifteen-page report includes a factual survey, an assessment of responsibilities and indemnities, and recommendations of a military and political character to prevent further incidents. The Council adopted this report, with minor modifications, within two weeks. The parties somewhat reluctantly accepted it, the Greek Government paying an indemnity. The Swedish Government supplied the neutral officers of a conciliation commission.

#### Conclusions

1. The handling of this case has been cited by several commentators as a classic example of the best way to make observation and fact-finding machinery work.
2. The most striking element was the speed of the whole operation.
3. Another element is the unprecedented advance action taken by the President of the Council and the Secretary-General.
4. The Council separated the two aspects of the case: cessation of hostilities and settlement of the dispute. It also rejected the plea of legitimate defense, asserting that the League could not condone any unilateral act of force, even if justly provoked.
5. An important factor was the eminence of the members of the Commission of Enquiry under the chairmanship of Sir Horace Rumbold, British Ambassador at Madrid.



10. Convention to Improve the Means of Preventing War  
An Attempt by the League of Nations to Codify the Experience  
Gained from 1921 to 1931 in Using Commissions of Enquiry

The Committee on Arbitration and Security of the Preparatory Commission on Disarmament drew up the Convention to Improve the Means of Preventing War which was adopted by the League in September 1931. The Convention was designed to halt potential or actual hostilities in political disputes in order that arbitration might go forward.

By the Convention the Council was empowered to separate the combatants of the parties to a dispute by a demilitarized zone or demarcation line and to appoint commissions of inspection to see that its orders were carried out. The accompanying executive regulations set down rules for the national composition of the commissions and established the right of free movement for the commissioners. Staff was to be provided by the Secretary-General and expenses borne by the parties to the dispute. The commissioners were to report on their mission to the Council.

This Convention, though adopted by the League, never received the ten ratifications required to put it into effect.

## 11. The Manchurian Conflict, 1931-1933

### Background

On September 17, 1931 Japanese forces launched an attack outside the South Manchuria Railway Zone in which Japan had treaty rights to maintain forces within prescribed limits. The Japanese forces were rapidly increased, and the aggression was apparently without the sanction of the Japanese Cabinet. The alleged reason for the aggression was that the Chinese were sabotaging the railway.

Two days after the action the Chinese Ambassador in Geneva called on the League Council, under Article 11, "to take such action as it deemed wise and effectual to maintain the peace." Thus the League was faced with the most serious problem of its existence. The United States from the beginning was in close touch and was consulted on every League move.

The Japanese and Chinese members of the Council had very little factual information. A fact-finding mission was at first considered but was opposed by Japan. The United States advised against sending such a mission because President Hoover and Secretary Stimson believed it would weaken the liberal Shidehara government which, though indignant at the army's behavior, felt it necessary to defend the action to the outside world. Japan, moreover, sent reassuring reports to Geneva that the troops would be promptly withdrawn as soon as security was restored in the area.

The troops were not promptly withdrawn but instead spread out until all of Manchuria was under their control. Japanese delegates now defended the wider action on the ground that: (1) China had broken the treaties, (2) China was unable to govern Manchuria, and (3) Japan needed Manchuria for her rapidly expanding population.

By October 13, both the League and the United States became convinced that Japan had neither the desire nor the ability to restrict the conflict. Stimson sent a strong message to the League urging it "to assert all pressure and authority . . . towards regulating the action of China and Japan" and stating that the United States, "acting independently. . . will endeavor to reinforce what the League does."

The Council, on receiving this message, invited the United States to participate in its proceedings. Japan opposed this action but Briand, as President, ruled that it was a procedural question not requiring unanimity. Thus Mr. Gilbert, United States Consul General in Geneva, sat at the table but stated that he could only participate in so far as the discussions related to the Kellogg Pact. His participation proved to be disappointing and ineffective. In Paris at a later meeting in November, Ambassador Dawes did not even attend the Council sessions.

The Council called on Japan to withdraw its troops without delay and urged the parties, after this withdrawal, to

begin direct negotiations. This resolution had no effect and the Council was urged to invoke Article 15 envisaging the use of sanctions.

Secretary Stimson, however, announced that the United States Government was convinced that the matter could be settled without resort to military action. Such action was deemed by other great powers as inadvisable in view of the economic depression and the increasing threats from Hitler. Stimson, however, told Dawes that sanctions would be supported by United States public opinion.

At this point it was the Japanese delegate who suggested that a Commission of Enquiry be sent "to investigate the whole situation both in Manchuria and China." As every other procedure had failed, this seemed the only hope of exerting a moderating influence, although some believed that Japan made the proposal in order to have time to consolidate her gains. Accordingly, the Council set up a Commission and defined its terms of reference. But with the Japanese disputing every point, it took three weeks to agree on the terms.

Three months had already elapsed, and a new Japanese authority was in full control of Manchuria, now called Manchukuo.

### The Issue

The issue was how to stop Japanese aggression in Manchuria and restore Chinese authority in the area.

### Terms of Reference and Composition of the Commission

The terms of reference of the five-member Commission as laid down by the Council were as follows:

"to study on the spot and report to the Council on any circumstance which, affecting international relations, threatens to disturb peace between China and Japan, or the good understanding between them, upon which peace depends;

"The Governments of China and of Japan will each have the right to nominate one Assessor to assist the Commission;

"The two Governments will afford the Commission all facilities to obtain on the spot whatever information it may require;

"It is understood that, should the two Parties initiate any negotiations, these would not fall within the scope of the terms of reference of the Commission, nor would it be within the competence of the Commission to interfere with the military arrangements of either Party;

"The appointment and deliberation of the Commission shall not prejudice in any way the undertaking given by the Japanese Government in the resolution of September 30th as regards the withdrawal of the Japanese troops within the railway zone."

The composition of the Commission was as follows: The Rt. Hon. The Earl of Lytton, P.C., G.C.S.I. (British), H.E. Count Aldrovandi (Italian), General de Division Henri

Claudel (French), Major-General Frank Ross McCoy (American), and H.E. Dr. Heinrich Schnee (German).

Operation and Performance

The Commission got off to a slow start. It was authorized by the Council on December 10, 1931; approved on January 14, 1932; sailed by steamer from Le Havre February 3, 1932; arrived in Tokyo February 29; visited Shanghai, Peiping, Nanking, and Manchuria between March 14 and July 20; and completed its unanimous report on September 4, almost nine months after its appointment. Meanwhile an ad hoc Consular Commission reported to the Council on the Japanese attacks on Shanghai.

The Lytton Report, when finally made, was a document of 139 pages and 12 maps. Stimson called it outstanding, momentous and unprecedented. It gave a historical narrative; a narrative of events on and after September 18; principles and conditions of settlement; and considerations and suggestions to the Council.

The effect of the report was to vindicate the Chinese case on all fundamental issues: (1) that although China was in a state of unsettled evolution, the Japanese action could not be regarded as legitimate self-defense; (2) that the people of Manchuria were Chinese and did not wish to be separated; and, (3) that the disorganized condition of China did not justify Japan's disregard of such treaties as the

Covenant, the Kellogg Pact, and the Nine-Power Treaty.

The Commission proposed that an autonomous regime be set up in Manchuria and that the respective rights and interests be clearly established in a series of agreements.

The League Council adopted the report, but failed to get Japan to agree, and the latter left the League.

### Conclusions

1. The Manchurian conflict was undoubtedly the most difficult, complex and unpromising case which had come before the League so far. The immediate incidents of September 18, 1931, grew out of decades of controversy between China and Japan. League intervention came into the affair much too late. China or a third party, as in the Aaland Islands case, should have drawn the League's attention to the threatening situation much earlier if the effort was to succeed.
2. The treaties between China and Japan were ambiguous and constantly the subject of dispute and misunderstanding. There was no clear-cut agreement about rights, frontiers, duties and responsibilities. Though Japan denied the intention to annex Manchuria, there was no doubt that the military party in Japan believed that Manchuria, in fact, should belong to Japan. But the West, especially Secretary Stimson, believed that the liberal party headed by Foreign Minister Shidehara should be given a chance to

hold the military in line. For this reason, the League's usual fact-finding operations were not put into action at an earlier time.

3. Had the United States agreed, the League, as in the Greek-Bulgarian case, would have sent a Commission of Enquiry to the spot within a week after the outbreak of hostilities on September 18, 1931. The Lytton Commission of Enquiry, with an American member suggested by the State Department, was constituted three months after hostilities had started, and did not get on the scene until some months later. It was actually constituted only after a Japanese suggestion.
4. There were too many delays. The Lytton Commission took the slowest means of ocean and rail travel, going westward via New York, the Pacific and Tokyo. It could have arrived in Manchuria much sooner via the Trans-Siberian Railway.
5. Both China and Japan cooperated by (1) appointing "assessors" to assist and (2) granting unlimited access to places.
6. The Lytton Commission was composed of perhaps the most competent, experienced and influential persons who could have been assembled. They were drawn from the five great powers, and being Westerners they were considered to be detached and impartial. The Commissioners did not actually



function in a representative capacity, and their governments did not know what was in the report until published.

7. The advisers and supporting staff of the Commission were an outstanding group of experts and officials. No such aggregation of competence had been organized before in the League's history, or perhaps at any time earlier. It is not apparent that the League Secretary-General exercised any supervision or influence on the staff, and certainly not on the advisers.
8. The terms of reference of the Commission were perhaps too general and inadequate. It was distinctly not a mediatory or negotiating body. It could only look, inquire and report. In the eyes of some delegations from smaller countries it appeared to condone a fait accompli. The terms of reference were probably restricted by consulting about them with the Japanese delegate.
9. The report, nevertheless, was one of the most thorough, formidable and constructive which had ever been made by a Commission of Enquiry. It was adopted by the League, and approved by the United States, but no action was taken to carry it out.
10. Japan was determined to resist any sort of plan which did less than give her Manchuria. When the League decided against her, she simply walked out. This case illustrates once more the importance of good will on the part of the disputants.

12. The Conflict between Colombia and Peru over Leticia,  
1932-1935

Background

The dispute between Peru and Colombia arose when Peruvian forces in September 1932 invaded Leticia which had been transferred by a 1922 treaty from Peru to Colombia as part of a general frontier settlement. The cession of this 4,000 square mile area had been made without consulting the inhabitants, most of whom remained loyal to Peru.

The territory in dispute was important to Colombia because it gave direct access to the Amazon. For the same reason it was important to Peru because its province of Loreto, being east of the Andes, depended on the Amazon as an outlet, and its people did not favor a new Amazonian power. It was the Peruvians of Loreto who invaded Leticia, and the Peruvian Government, though disavowing the action, felt it necessary to support them when Colombian forces organized to reoccupy the territory. Peru wanted to negotiate a settlement while they (the Loretans) were still in possession, but Colombia refused to negotiate as long as hostile forces occupied the territory.

Brazil offered to mediate the dispute, proposing that the occupying Peruvians turn the territory over to a Brazilian unit while the mediation was in process. Colombia accepted; Peru attached so many conditions that it amounted to a rejection.

tion. Colombia appealed to the League Council which took up the case on January 14, 1933 when the President of the Council, in accordance with precedents, sent telegrams to the two governments asking them to refrain from any action likely to aggravate the situation. The Council appointed three of its members (Irish Free State, Spain and Guatemala) as a committee to follow the dispute and report to the Council. The Peruvian forces continued to advance, and the Council sent further messages calling for cessation of armed action and restraint by Colombia in restoring order.

Colombia on February 18 asked the League Council to convene on the basis of Covenant Article 15. Peru refused to attend. The U.S. informed the League that she fully supported this effort and had so informed both parties. (Since the U.S. and the other American states supported the League efforts, a jurisdictional difference between the League and the Pan American Union was avoided.)

The League proposed that while the two parties were negotiating a settlement, a League administrative commission should take charge of the territory, the Peruvian forces evacuating entirely and the Colombian forces becoming an international force under the League Commission. Colombia accepted; Peru rejected.

With mediation having failed under Article 15, paragraph 3, the Council invoked paragraph 4, the prelude to sanctions.

An advisory committee of thirteen was appointed to assist the Council in the performance of its duties "and to concert their action." The U.S. was invited to collaborate in its work in a manner "considered most appropriate." It accepted and appointed the U.S. Minister in Berne, Hugh Wilson, to participate without voting. (The U.S. deemed it necessary to exercise an independent judgment on any action taken under the Covenant).

Meanwhile, it appeared that war was imminent. Colombian ships on an Amazon tributary were fired upon, and Colombian forces captured a Peruvian fort. Four Peruvian ships of war were sent through the Panama Canal. Colombia increased her naval forces with two destroyers newly built in Britain. The Colombian Legation in Lima was sacked. The League urged all members to refuse supplies to the Peruvian ships going through the canal and up the Amazon, but the communications arrived after the ships had gone on.

#### The Issue

The issue before the Council was (1) to bring about cessation of hostilities, and (2) to administer the territory while a settlement was being negotiated.

#### Terms of Reference

The Committee of Three made its report under Article 15, paragraph 4 and proposed that:

1. An Administrative Commission go to the territory within thirty days to maintain order and administer the area;

2. The Peruvian forces withdraw immediately on the arrival of the Commission;
3. The Commission call on military forces of its own selection to assist in maintaining order;
4. The Commission's term of office be for one year;
5. The disputing parties meanwhile negotiate, and that the Council lend its good offices at the request of either party;
6. Colombia defray the expenses of the Administrative Commission;
7. On acceptance of these proposals both governments order cessation of hostilities and that all military forces of each country remain strictly within its frontiers.

Colombia accepted, and the new president in Peru also accepted.

#### Operation and Performance

The Administrative Commission, composed of Colonel Arthur Brown (American), Commander Basto (Brazilian), Captain Iglesias (Spanish), arrived in Leticia on June 23 and the Peruvian forces withdrew the same day. The League flag was hoisted for the first time in the League's history.

The Commission, assisted by a garrison of seventy-five men and officers governed the area for a year without incidents of any kind. Damaged property was repaired, sanitary conditions restored, and several schools and a hospital were

built. Meanwhile the two parties negotiated an agreement which recognized that the 1922 treaty was in force, and that the territory formed part of Colombia.

#### Conclusions

1. The Commission arrived on the spot six months after the case was first taken up by the Council, and three months after hostilities were at their highest. The war fever had already subsided partly due to unfavorable world reaction as expressed in the Council, and partly due to a change of administration in Peru.
2. In effect the Commission's main duties were to maintain order, to prevent further fighting and to govern the territory pending agreement by the parties. The Commission carried out its assigned duties with complete success.
3. The success of the Commission was in part due to the collaboration of the U.S. with the League Council efforts, and to the presence of an American member on the Commission.
4. The constructive work done by the Commission in restoring and rebuilding war damaged property, and in creating health, sanitary and educational facilities, made its presence appreciated by the population.
5. In short the Commission played an important transitional role in helping Peru get out of a difficulty without too much loss of face. Its presence enabled the cooling-off process to take place without provocative incidents.

6. The dispute might have been resolved earlier and bloodshed avoided if Brazil, with some support from the U.S., had not delayed the Council's efforts in the early weeks of the dispute.

### 13. Italo-Ethiopian War, 1934-1936

#### Background

In 1915 when Italy was hesitating to enter World War I on the side of the Allies, Britain and France promised to grant her equitable compensation for any territorial gains in their colonial possessions which they might make at the expense of Germany.

When President Wilson in 1918 insisted that there should be no territorial gains made by any of the Allies, the best German African colonies were divided between Britain and France in the form of League mandates, which meant that these two would have their administration but not their sovereignty. Italy, however, did not secure any German territory to administer, the Allies apparently feeling under no obligation to fulfill their 1915 pledge since under the mandates system they did not make any "sovereign" gains. It was also true that, unlike the British and French holdings, none of the Italian colonial holdings (Libya, Cyrenaica, Eritrea and Somaliland) were contiguous to the former German possessions.

Italy from 1918 onward, and particularly after Mussolini came into power, felt deeply aggrieved at this exclusion. Her colonies in North and East Africa were poor, dry desert lands, wholly unfit to take care of Italy's surplus population. Ethiopia, which lay between the Italian colonies of Eritrea



and Somaliland, was believed to have rich mineral resources and was known to have vast fertile areas. These could open up important economic and perhaps territorial possibilities for Italy. Moreover, in 1896 an attempted invasion of Ethiopia by Italy had been defeated at Adowa, and Mussolini did not find it difficult to arouse Italian sentiment in favor of restoring Italian pride and prestige. Besides, both Japan and Germany had been able to defy the League with impunity.

In 1933 Mussolini began his plan of attack and to prepare for war on Ethiopia, a war of aggression to expand the colonial territories of Italy. It was not difficult to find a pretext for war. The frontier between Ethiopia and the two Italian colonies was long and undelimited and had been the subject of frequent disputes.

On January 3, 1935, the Emperor of Ethiopia sent a telegram to the League reporting the massing of Italian troops and requesting the League Council to take measures to safeguard the peace. Thus the Italo-Ethiopian conflict was brought into the international arena. Would the Council be able and willing to defend a weak member against the aggressive designs of a more powerful state?

#### The Issue

The issue before the League was how to assist Ethiopia

in resisting an act of aggression by Italy, in particular, how the League Council and Assembly could effectively apply the collective measures to restrain the aggressor as laid down in Articles 15 and 16 of the Covenant.

Commission of Enquiry: Neutral Observers Requested

In June 1935, in the face of the increasing Italian military build-up and the anti-Ethiopian press and radio campaign in Italy alleging Ethiopian threats, Ethiopia asked the Council to appoint neutral observers to inspect the frontier districts and the other colonies, make an investigation of the facts and report to the Council. Ethiopia volunteered to pay the costs of such an inquiry. No action was taken on this request.

Alternative Action by the League

With Italian aggression continuing despite all League appeals, the League decided to apply economic sanctions under Article 16. Export of arms and ammunition to Italy was prohibited, loans and credits stopped, and a long list of exports was prohibited, but not oil. France and Britain, now concerned with the Hitler menace, did not wish to alienate Italy or venture into a war over Ethiopia. The U.S. also did not support an effective oil sanction. Italy succeeded in conquering the country before the sanctions could become effective and held it until defeated in World War II.

### Conclusions

1. In Mussolini's view a "colonial operation" was different from a European war both on the plane of ethics and on the plane of expediency. In the "colonial operation" civilization was pushing back barbarism and therefore League Covenant principles should not apply in the same way. "We find it monstrous that a nation [Britain] which dominates the world refuses to us a wretched plot of ground in the African sun."
2. It is evident from a study of this case that Britain and France had, from the beginning, decided that no action should be taken against Italy which might provoke a war with Italy. This decision was motivated by (a) the menace of a threatening and rearmed Nazi Germany, and (b) a guilty feeling that Italy did not get a square territorial deal in Africa at the end of World War I.
3. This case shows that no international action to prevent or halt aggression - whether taken by a League or a United Nations - can be effective unless the major powers agree to or acquiesce in the action. This is the more true if the contemplated action is against another great power, i.e. against Japan in Manchuria, or Italy in Ethiopia.
4. The imposition of an oil sanction against Italy in 1935, or the closing of the Suez Canal could have stopped the

Italian aggression in a matter of a few weeks. Closing the Suez Canal was never suggested, and the oil sanction, though adopted in principle, was never put into effect.

5. The request of Ethiopia on June 19, 1935, to dispatch a Commission of Enquiry to Ethiopia did not get the support of Britain and France and other members of the Council because it was opposed by Italy.
6. A plan of international assistance, initiated by the League and looking toward political, economic and financial reforms in Ethiopia and accepted by the latter, could not be put into effect because Italy opposed it on the ground that it did not protect her own "vital interests" in Ethiopia.
7. As Commissions of Enquiry had in previous cases proved to be most effective when they got to the spot in the early stages of a conflict, the two major powers - France and Britain - used the tactic of delays by asking for time to carry on consultations with Italy outside the League.
8. The use of poison gas by a white European country on a dark-skinned African people was met with revulsion and racial disturbances in a number of places, including Harlem in New York. Ethiopians became the acknowledged champions of the black race by the Negroes of the old world and the new.
9. Failure to aid the victim of aggression and unwilling-

ness to apply the obligations of the Covenant to stop Mussolini had the immediate result of bringing about the downfall of the British Foreign Secretary, and had much to do with the subsequent fall of the French Prime Minister. It was also the beginning of the end of the League of Nations, and it gave definite encouragement to the aggressive designs of Hitler. Failure to apply the Covenant in Africa would make it impossible to apply it in Europe.

CASES UNDER INTER-AMERICAN ORGANIZATIONS AND PROCEDURES

Pre-War Cases

1. Chaco Dispute Between Bolivia and Paraguay  
1928-1929 and 1932-1935

Background

The northern Chaco, a vast forested and swamp area, had been the subject of dispute between Bolivia and Paraguay since the days of Spanish dominion. Bolivia lost its outlet to the Pacific in 1883 to Chile, and the Tacna-Arica award of 1929 completely foreclosed any hope of regaining an outlet to the Pacific. Bolivia intensified its efforts to reach the Pilcomayo River and from it the Atlantic. These efforts brought Bolivia into sharp collision with Paraguay, which claimed all of the Chaco, not merely that portion between the Pilcomayo and Verde Rivers awarded to it by President Rutherford B. Hayes in 1878.

Twice the Chaco dispute flared into open war, in 1928 and again in 1932. The fighting in the earlier phase was stopped in 1929 through the use of a special commission of investigation and conciliation (the McCoy Commission) under the good offices of the International Conference of American

States on Conciliation and Arbitration, then meeting in Washington. The more violent fighting in 1932 did not terminate until 1935. In the second phase the American states suspended their efforts, and a League of Nations Commission took over the case. Peace was finally restored through a Chaco Peace Conference consisting of the two parties and six American republics, including the United States.

#### The Issue

In each of the two phases the issue was whether Paraguay or Bolivia should have sovereignty over the Chaco.

#### Terms of Reference of Special Commission of Investigation and Conciliation

The original terms of reference were to investigate responsibility for initiating hostilities, to conciliate and to terminate its work in six months. The original terms did not include the territorial question. Later the terms were expanded so that the Commission might prepare and plan for the settlement of the basic question between the two countries.

#### Operation and Performance of the Special Commission

The Commission succeeded in achieving return of captured forts and prisoners and resumption of diplomatic relations between the parties, but its plan for final settlement failed to satisfy either party.

#### Conclusions as to the Special Commission

1. Though only partly successful, the Commission rendered good service in postponing war for another three years.
2. The peace mechanism may be a good one and the composition excellent, but if the parties are too hostile to use it, it will be ineffective; if they are willing to use it only in part, it will be only partly effective.

#### Terms of Reference of the League of Nations Commission

Paraguay declared war on Bolivia on May 10, 1933, after the Bolivians halted a great Paraguayan offensive at the end of 1932. The Council of the League of Nations in July approved the terms of reference which required the Commission to negotiate an agreement for cessation of hostilities, prepare an arbitral agreement, make an inquiry on the dispute and report the facts to the Council.

#### Operation and Performance of the League Commission

The Commission of Enquiry started inauspiciously, with both parties recommending that it stay in Europe, because the neighboring countries were better qualified to serve as intermediaries. An Inter-American Conference (Seventh International Conference of American States) happened to be in session in Montevideo and aided the Commission in achieving a cease-fire during the Christmas season of 1933. The Commission produced an elaborate report to the Council and de-



parted from South America in mid-March, 1934.

Conclusions based on the League Commission Experience

1. The use of two or more methods for achieving a peaceful settlement of an international dispute without proper coordination renders peace efforts more difficult.
2. Where a commission has both investigative and conciliation tasks, an inquiry to fix responsibility for starting and continuing hostilities should be made only after all efforts at conciliation have been exhausted.
3. The success of a peace-observation mission depends principally upon the cooperation of the parties.

## 2. Haitian-Dominican Dispute, 1937

### Background

In early October 1937 Dominican soldiers massacred hundreds and possibly thousands of Haitian laborers who had gone across the border in their customary quest of seasonal labor. On November 12 the president of Haiti requested the good offices of the presidents of Cuba, Mexico and the United States. Following a series of conferences, Haiti finally invoked the Gondra Treaty. This Treaty required both parties to agree to utilize its provisions. In this case, the only case in which that Treaty was ever utilized, the Dominican Government agreed, and both parties named their representatives. The Commission of Investigation and Conciliation was to be composed of the three representatives of American states longest accredited in Washington.

### The Issue

Was the Dominican Government responsible for the massacre of large numbers of Haitians?

### Terms of Reference and Composition

The terms of reference were contained in the Gondra Treaty itself. The Commission, composed of the diplomatic

representatives at Washington of Guatemala, Peru and Argentina, was to make an impartial investigation of the controversy, set forth its results in a report and propose to the parties an equitable solution of the controversy.

#### Operation and Performance

The Commission reached agreement within a month. While the Dominican Government accepted no official responsibility for the acts, it agreed to pay \$750,000 as an indemnity, one-third in cash and the remainder in five annual installments. The first of the annual payments was not made at all, and ultimately the \$500,000 owing was compromised for \$275,000 in cash.

#### Conclusions

1. The Gondra Treaty, like several other inter-American treaties of the pre-war period, was multilateral in form but bilateral in operation. These pre-war treaties are to be distinguished from the post-war treaties, such as the Rio Defense Treaty and the OAS Charter, which are truly collective in operation.
2. The technical perfection of a treaty providing for the peaceful settlement of international disputes is not a matter of prime importance. The most important factor is the will of the member states to peace.

3. In the pre-war period inquiry and investigation did not carry the connotations of the post-war period which included an "on-the-spot" investigation, often involving interrogation of witnesses, etc.

Post-War Cases

Applications of the Inter-American Treaty  
of Reciprocal Assistance

1. Case of Costa Rica and Nicaragua, 1948-1949

Background

Shortly after the close of World War II a "Caribbean Legion" came into existence, dedicated to the overthrow of the Nicaraguan dictator, General Anastasio Somoza. Democratic Costa Rica was a principal antagonist, and General Somoza decided to pay off a grudge. On December 11, 1948, the Costa Rican ambassador to the OAS charged that the Government of Nicaragua was guilty of violating Article 6 of the Rio Treaty by supporting an invasion of Costa Rica.

The Issue

The issue was whether Nicaragua was guilty of supporting an invasion of Costa Rica.

Terms of Reference and Composition

In this first case the OAS Council set the precedent of very short, simple terms of reference. The Investigating Committee (then called Committee of Information) was to

study "the actual facts, the antecedents of those facts and everything else which will help clarify. . ." The Investigating Committee was composed of representatives of the Governments of Brazil, Colombia, the United States and Mexico.

#### Operation and Performance

The Investigating Committee found that there was no doubt that the Government of Nicaragua had failed to prevent revolutionary activities against the Government of Costa Rica; it also found that for months preceding the Government of Costa Rica gave moral and material help to the Caribbean Legion. The problem was settled for a time by the signature of a pact of amity on behalf of the two countries at the Pan American Union.

#### Conclusions

Not only did the Council set a precedent in establishing very short and general terms of reference, but it created another valuable precedent by constituting itself as a Provisional Organ of Consultation without setting a date or even intending to call a Meeting of Ministers of Foreign Affairs. This greatly simplified and expedited the peace-observation procedure of the OAS.

## 2. Haitian-Dominican Republic Dispute, 1949

### Background

In February 1949 the Haitian ambassador at Washington requested the Council of the OAS to convoke an Organ of Consultation of the OAS on the grounds of "moral aggression" by the Dominican Republic, which had been harboring Colonel Roland, a Haitian exile, who, with the collaboration of Dominican officials, was plotting to overthrow the Haitian Government.

### The Issue

The immediate issue was whether the OAS Council should convoke the Organ of Consultation and constitute itself as Provisional Organ under the Rio Treaty to consider the complaint.

### Terms of Reference

The OAS Council refused to convoke the Organ, apparently on the grounds that the Rio Treaty was not suitable for the handling of this issue. The next month, however, March 1949, the Haitian Government appealed to the Inter-American Peace Committee. That appeal became the second case of the Peace Committee; a fact-finding committee was appointed and eventually achieved a satisfactory result.

Conclusions

While any member of the OAS may bring a charge of aggression, it is the Council of the OAS which decides whether or not to convoke an Organ of Consultation. The substantive consideration of this case was handled by the Inter-American Peace Committee.



### 3. Caribbean Cases, 1949-1950

#### Background

Tension between Haiti and the Dominican Republic was relaxed only temporarily by the solution of the preceding case, and subversive activities of Haitian exiles soon resumed in the Caribbean area, which was divided between mutually hostile dictatorial and democratic governments. The United States proposed that the Inter-American Peace Committee consider the plotting going on in the Caribbean. The Committee did so but without conducting any field investigation. Its efforts were generally ineffective, tensions continued to mount, and the peace-observation was transferred to the OAS Council under the Rio Treaty.

#### The Issue

Which of the Caribbean nations were guilty of aggression against their neighbors?

#### Terms of Reference and Composition

The terms were somewhat more elaborate than the usual OAS formula: "conduct an on-the-spot investigation of the facts and their antecedents." The Council authorized the Committee to hear witnesses, take depositions and avail itself of any other sources of information it considered pertinent; directed it to hold meetings in Washington to hear representatives of the parties and other witnesses; author-

ized it to decide upon its own itinerary for travel, "giving prior notice inereof to the respective governments;" and instructed the Committee to prepare reports covering both the facts and conclusions developed in its investigations. The Committee was composed of the five OAS Council representatives of Bolivia, Colombia, Ecuador, U.S. and Uruguay.

#### Operation and Performance

The Committee investigated from January 12 to March 13, 1950, starting in Washington and continuing in the Caribbean area. It found the Dominican Government guilty of aiding a conspiracy to overthrow the Haitian Government. On the counter-charge by the Dominican Government, it found Haiti not guilty of plotting against the Dominican Government, but it did find that Cuban and Guatemalan officials had participated in plots against the Dominican Government. The Committee then analyzed the underlying tension in the Caribbean and recommended the creation of a Special Committee which, in the course of a year, produced some relaxation of tensions.

#### Conclusions

The OAS Council proved that it could act with promptness and vigor - more effectively on the immediate issue of the mutual charges of subversion than on the general problem of underlying tensions. The problems of political instability in the Caribbean and international conflicts arising in con-

- 6 -

nection with the existence of dictatorships remain to this  
very day, though the parties and other circumstances change.

#### 4. Situation in Guatemala, 1954

##### Background

The increasing use of Guatemala as a base for Communist subversion in Central America by the Communist-dominated government of President Jacobo Arbenz had led Secretary of State Dulles to obtain an anti-Communist resolution from the Tenth Inter-American Conference at Caracas in March 1954. Two months later, the U.S. and Guatemala's neighbors were alarmed at the news of the surreptitious arrival of a shipload of Czech arms and ammunition in Guatemala. Conversations began, leading toward the convocation of an OAS Organ, when, on June 18, 1954, the Guatemalan Colonel Castillo Armas invaded his native land from Honduras. Action in the eight days between June 19 and June 27, when the affair was settled, took place in the United Nations Security Council, in the Inter-American Peace Committee and in the Council of the OAS.

On June 19 a Guatemalan representative appealed to the UN Security Council "to stop the aggression" and also appealed to the Inter-American Peace Committee at Washington. On June 20 the UN Security Council heard Guatemala's appeal for a UN fact-finding mission. A resolution to refer the case to the OAS under Article 52 was vetoed by the Russian

member; an innocuous French resolution calling for cessation of bloodshed was passed.

#### The Issue

The issue in the Security Council was jurisdictional - whether Guatemala should have recourse first to the OAS or to the UN.

#### Decision

The second and last meeting of the UN Security Council on the matter was on June 25, and the narrow issue was whether to adopt the agenda, including the case of Guatemala. Voting against the adoption of the agenda, and hence for leaving the case in the hands of the OAS, were the U.S., Brazil, China, Colombia and Turkey. Voting for the adoption of the agenda were Denmark, Lebanon, New Zealand and the U.S.S.R. The U.K. and France abstained. Thus the case was left with the OAS.

#### Events in the OAS

In the Inter-American Peace Committee the Guatemalan representative first asked for an investigation and then, on June 22, cancelled completely its request for a Peace Committee visit. The next day the Honduran and Nicaraguan ambassadors asked the IAPC to send a subcommittee to Guatemala, Honduras and Nicaragua. While the IAPC tried to get access to Guatemala, it was unable to do so until

Guatemala lost in its June 25 appeal to the UN Security Council. By June 26 Guatemala asked the IAPC to send the "Subcommittee on Information." Hearing on June 27 that the Guatemalan Government had changed hands, the Committee did not leave Washington until June 29 and was later halted permanently in Mexico.

On June 26, when Guatemala for the second time asked for a fact-finding visit of the IAPC, representatives of ten governments in the OAS, including the U.S., called for an Organ of Consultation under the Rio Defense Treaty and proposed a date of July 7. The Council of the OAS, meeting on June 28, agreed to a Foreign Ministers' Meeting and set Rio de Janeiro as the site. By July 2 the close of hostilities and the entry of Colonel Castillo Armas into the government caused the Council to postpone sine die the call for an Organ of Consultation.

#### Conclusions

While initiative was taken in three separate international bodies, no peace-observation was carried out by any one of them, due in part to Guatemalan vacillation at the beginning as to which organ to invoke, and in part to the uncertainty of the jurisdictional issue between the OAS and the UN.

Behind the controversy were the United States and the Soviet Union, the former insisting on the use of the Organization of American States, and the latter insisting on the United Nations.

## 5. Case of Costa Rica and Nicaragua, 1955

### Background

As in 1949, in 1955 democratically governed Costa Rica was at odds with dictatorially governed Nicaragua, the situation exacerbated by the hatred of President Figueres for General Somoza. Early in January 1955 the Costa Rican ambassador alleged an invasion by Nicaraguan forces, and the OAS Council set up an investigating committee.

### The Issue

Was Nicaragua guilty of violating the Rio Treaty by invading Costa Rica?

### Terms of Reference and Composition

The usual very brief injunction to conduct an on-the-spot investigation of the facts and their antecedents was given by the Council. The Committee was under the able chairmanship of the experienced Mexican delegate, Ambassador Luis Quintanilla. Representatives of Brazil, Ecuador, Mexico, Paraguay and the U.S. were the other members.

### Operation and Performance

The Committee accomplished its investigation in a fortnight, basing itself in San José, Costa Rica. It



organized its own Committee of Military Experts, members of which were detailed by the governments represented on the Investigating Committee. Using diplomatically phrased threats of sanctions against General Somoza of Nicaragua, the Committee obtained the cooperation of that individual. Several countries offered the Committee airplanes for aerial observation, and U.S. planes were relied on heavily. Without publicly condemning Somoza, the Committee restored peace.

#### Conclusions

1. This case is one of the outstanding successes of the inter-American collective security system. An armed clash was avoided by use of "pacific observation flights" and a "security zone."
2. Several precedents were well-established by this time: the avoidance of detailed terms of reference, the appointment of competent and respected men, and their prompt arrival on the spot.
3. The use of the threat of sanctions was a major factor in the success of the OAS in this instance.

## 6. Request of the Government of Ecuador, 1955

### Background

Boundary disputes between Ecuador and Peru have existed since colonial times and even today are a serious problem in South America. On January 29, 1942, the two countries signed a peace treaty delimiting boundaries, and Argentina, Brazil, Chile and the U.S. signed a protocol as guarantors. In September 1955 before the OAS Council the Government of Ecuador charged Peru with massing troops for an attack.

### The Issue

Was Peru guilty of preparing aggression against Ecuador?

### Conclusions

No investigating committee was ever appointed because the four guarantor countries took prompt action to observe the threatened area by land and air. They found nothing abnormal. Ecuador withdrew its complaint on the ground that OAS action was no longer necessary.

## 7. Honduran-Nicaraguan Dispute, 1957

### Background

The perennial border friction between Honduras and Nicaragua broke out in hostilities in April and May of 1957. The case was brought before the OAS Council which worked out an arrangement by which hostilities ceased and the legal question was submitted to the International Court of Justice. Difficulties arose in the execution of the Court's judgment which were resolved by the Inter-American Peace Committee. This case dealt only with that portion of the problem before the submission of the question to the Court.

### The Issue

Was Nicaragua guilty of aggression as charged by Honduras, in occupying and stationing troops in the disputed territory?

### Terms of Reference and Composition

The terms were the customary brief injunction "to investigate on the ground the pertinent facts and their antecedents and to submit a report thereon." A former president of Panama, now ambassador to the OAS, was named chairman. Other members were the representatives of

Argentina, Bolivia, Mexico and the United States.

#### Operation and Performance

Within a week after its arrival in Central America on May 4, 1957, the Committee achieved a cease-fire which was, however, frequently violated. With great difficulty simultaneous troop withdrawals were arranged. The veteran vice-chairman, Ambassador Luis Quintanilla of Mexico, was responsible for achieving the agreement to submit the case to the International Court of Justice.

#### Conclusions

This was an especially difficult case involving a very large area of land. It well illustrates the need in peace observation of respected, high-caliber men, not hampered by detailed terms of reference. The step-by-step approach used can be effective in complex cases, i.e. first achieve a cease-fire, then a troop withdrawal, and finally devise a method for working out a peaceful settlement of the underlying problem.

## 8. Situation of Panama, 1959

### Background

This was the first of the many international disputes arising out of the triumph of the Castro revolution in Cuba on New Year's Day, 1959. At the end of April the Panamanian ambassador called for a convocation of an Organ of Consultation on the ground that Panama had been invaded, although Cuba was not charged with aggression. Panama had informed the Government of Cuba that it feared such an invasion and had received assurances that the invasion would be prevented. The Council of the OAS agreed to the appointment of an investigating committee.

### The Issue

Although the parties were not identified, the question was whether Panama had been the victim of armed aggression from abroad.

### Terms of Reference and Composition

The terms of reference were "to investigate, on the spot, the pertinent facts and submit a report thereon." The members of the Committee were the representatives of Brazil, U.S., Uruguay, Argentina and Costa Rica.

Operation and Performance

In a few days in Panama the Committee interrogated prisoners, examined captured arms and witnessed the surrender of the small invasion force. The Committee recommended, and the OAS Council ordered, a naval patrol in addition to an air patrol, both of which were largely carried out by U.S. elements.

Conclusions

This case illustrates the routine, effective action of the OAS peace-observation procedure. Perhaps the sole novel development in peace-observation procedures was the use of naval observation, but this action was cautiously circumscribed because the OAS Council did not want to give authority to the observation committee to detain vessels, even in Panamanian waters. The issue was to be faced again in the Cuban Missile Crisis of 1962.

## 9. Situation of Nicaragua, 1959

### Background

Castro kept the Caribbean area in turmoil throughout 1959 with invasions of Panama, Nicaragua, the Dominican Republic and Haiti in turn. On June 2, 1959, the Nicaraguan ambassador to the OAS asked for the convocation of an Organ of Consultation under the Rio Treaty to consider a charge of invasion of his country with airplanes and arms from Costa Rica. (Neither the Government of Costa Rica nor that of Cuba was specifically charged.)

### The Issue

The issue was whether Nicaragua was the victim of external aggression.

### Terms of Reference and Composition

In addition to the usual injunction to the Investigating Committee to investigate and report, the Council's resolution concluded with a statement that the resolution was in no way a prejudgment of the facts or an intervention. This unprecedented limitation was apparently intended to prevent the Committee from taking a broad view of the terms of reference as the Somoza family of Nicaragua was not popular among

the members of the OAS. The Nicaraguan National Guard had already overcome the invaders, and there was no immediate threat of conflict. Members of the Committee were the OAS ambassadors of Uruguay, Mexico, U.S. and Brazil.

#### Operation and Performance

The lack of enthusiasm by the Investigating Committee was reflected in the length of time (ten days) it took for it to get to Central America. In the several days there the members observed the energetic measures taken by the Costa Rican Government to prevent armed invasion of Nicaragua. In view of the limited terms of reference the Investigating Committee refrained from drawing conclusions or making recommendations for the OAS Council to act upon. However, it issued a supplementary report, showing the connection of Cuba with the invasion from Costa Rica.

#### Conclusions

This case illustrates the possible misuses of peace-observation. For example, an unpopular government, challenged by its own armed nationals from bases abroad, may deliberately confuse internal political unrest with external aggression or intervention.



10. Petition of the Dominican Republic, 1959

Background

In June 1959 the Dominican ambassador at the OAS charged the Governments of Cuba and Venezuela with supporting two invasions of his country that month. The charges were denied.

The Issue

The narrow issue was whether to investigate the charges of the Dominican Government.

Terms of Reference and Composition

The general dislike of the dictator Trujillo was so great that the OAS would not vote to have an investigation. Instead agreement was reached to call the Fifth Meeting of Consultation of Ministers of Foreign Affairs in August at Santiago, Chile.

Conclusions

Despite the right of the Government of the Dominican Republic to have an investigating committee set up under the Rio Treaty, this was not done. This case shows that sometimes peace-observation may be denied on account of political considerations, here the hatred of the Dominican dictator, Trujillo.

The work of the Fifth Meeting of Consultation is discussed in the Inter-American Peace Committee Case No. 10.

## 11. Venezuelan-Dominican Republic Case, 1960

### Background

Against a background of mounting hatred between the dictator of the Dominican Republic, Generalissimo Trujillo, and the president of Venezuela, Romulo Betancourt, the ambassador of Venezuela requested the convocation of an Organ of Consultation to consider a series of acts of intervention and aggression by the Government of the Dominican Republic against Venezuela, culminating in an attempt to assassinate President Betancourt.

### The Issue

Was the Government of the Dominican Republic guilty as charged?

### Terms of Reference and Composition

On July 8, 1960, the Council of the OAS set up an Investigating Committee with the customary task of investigating and reporting. The ambassador of Panama, Erasmo de la Guardia, was chairman; the other members were the OAS representatives from Argentina, Mexico, Uruguay and the United States.

### Operation and Performance

The Committee spent four days in Caracas and produced an excellent report. It found that the Government

of the Dominican Republic had connived at a leaflet-throwing expedition into Venezuela in 1959; that it had issued diplomatic passports to Venezuelans hostile to the Government of Venezuela; that the attempt on the life of President Betancourt received moral and material support from high officials of the Dominican Government, who had gone so far as to supply the very bomb that was used.

#### Conclusions

The OAS Council established several precedents by its action in this case:

1. It called for a Meeting of Foreign Ministers, held at San José, Costa Rica, in August, at which time sanctions were imposed on the Dominican Government. Those sanctions were extended by the Council early in January 1961 in line with the recommendations of a special OAS committee.
2. The Council decided to observe and judge the performance of the Dominican Government after the initial imposition of sanctions.
3. For the first time the OAS attempted to use the peace-observation process to accomplish the removal of a government - the Trujillo dictatorship. The problem was solved by the assassination of the dictator in May 1961.

12. Request of Colombia on the Cuban Situation, 1962

Background

The Colombian ambassador on November 11, 1961, requested the convocation of an Organ of Consultation under the Rio Treaty to consider threats to the peace that might arise from Communist intervention in the hemisphere. From this came the Punta del Este Meeting of Foreign Ministers which excluded the Government of Cuba from the Inter-American System.

Conclusions

This is really not a peace-observation case. It is carried here because the Secretariat of the OAS lists it as an application of the Rio Treaty.

### 13. Cuban Missile Crisis, 1962

#### Background

The most fateful crisis of the cold war was the grave confrontation between the United States and the Soviet Union when the latter attempted to alter the strategic balance of nuclear power by installing offensive missiles with nuclear capacity in Cuba in September and October of 1962. The two heads of state engaged in direct, personal negotiation. The UN Security Council was one forum; the OAS was another. Both parties agreed to on-site inspection by the UN, and the Secretary-General was ready to provide the service promptly, but the Cuban Government refused access. Hence no international inspection took place, and the U.S. continued its unilateral program of surveillance. Despite the failure to have on-site UN inspection, a review of this most critical confrontation can yield valuable lessons bearing on the future role of peace-observation under the United Nations.

In his speech to the nation on October 22, 1962, President Kennedy announced the discovery of "the secret, swift and extraordinary buildup of Communist missiles" in Cuba and the U.S. counter-measures: quarantine, close

surveillance, reinforcement of Guantanamo, calling of meetings in the OAS Council under the Rio Treaty and in the UN Security Council, calling on Chairman Khrushchev to cease and desist, and - perhaps most earnest of all - a policy of considering "any nuclear missile launched from Cuba against any nation in the Western Hemisphere as an attack by the Soviet Union on the U.S., requiring a full retaliatory response upon the Soviet Union."

The next morning the OAS Council voted unanimously to constitute itself a Provisional Organ of Consultation under the Rio Treaty and that afternoon called for immediate dismantling and withdrawal of all offensive weapons from Cuba and recommended measures, including the use of armed force, to assure that the Government of Cuba could not continue to receive military supplies from the Sino-Soviet powers.

The unanimity and speed of the OAS vote showed that the Latin American nations would, at long last, face with maturity and responsibility this most immediate and dangerous threat to the peace and security of the hemisphere. The day after this resolution, on October 24, the quarantine went into effect.

The Security Council of the UN, at the urgent request of the U.S., met on October 23, at the same time as the

OAS Council. On the following day the Acting Secretary-General U Thant revealed in the Security Council that he had proposed measures to avoid conflict, and that these were welcomed by both sides. The measures were, on the part of the Soviet Union, the suspension of all arms shipments to Cuba and, on the part of the U.S., the suspension of the quarantine measure involving the search of ships bound for Cuba.

It was the weekend negotiations of October 26 to 28 between President Kennedy and Chairman Khrushchev which eventually resolved the crisis. In a letter of October 26, as yet unpublished, Chairman Khrushchev named certain conditions under which he would remove the missiles. Another letter the next day, the "Turkey letter," so-called because he proposed to pull the missiles out of Cuba if the U.S. would pull them out of Turkey, was completely ignored by the United States. President Kennedy's letter of October 27, confirmed by Chairman Khrushchev's of October 28, struck the bargain: withdrawal of Soviet missiles subject to UN inspection in return for no quarantine and no invasion of Cuba by the U.S.

On October 30 and 31 U Thant conferred with Castro about UN inspection, during which time both the blockade and the aerial surveillance by the U.S. were suspended.

Castro's unacceptable five conditions made UN inspection impossible. These conditions were: (1) cessation of economic blockade and measures of economic pressure; (2) cessation of subversive activities; (3) cessation of "piratical attacks" from the U.S. and Puerto Rico; (4) cessation of violation of Cuban air space and territorial waters; (5) withdrawal from the naval base of Guantanamo and "return of Cuban territory occupied by the U.S." Various inspection proposals such as inspection by the International Committee of the Red Cross, or neutral ambassadors at Havana, did not prosper. The Soviet missiles were, however, withdrawn promptly, and the IL-28 bombers a little later. Verification consisted of "along-side eyeball inspection" by the U.S. Navy and aerial surveillance by the U.S. Air Force.

#### The Issue

The issue (once the U.S. and the Soviet Union had agreed that the missiles and bombers would be withdrawn) was whether verification of the withdrawal agreed to by President Kennedy and Chairman Khrushchev would be accepted by Premier Castro.

#### Conclusions

1. Since no international inspection took place, the lessons of this case relate to the political context rather than to techniques of peace-observation.
2. The OAS provided legal grounds and token assistance for such surveillance as took place.



3. The Secretary-General of the UN played a useful role although the Security Council, as expected where the two super-powers were involved, did not.

#### 14. Haitian-Dominican Republic Dispute, 1963

##### Background

Even after the death of Trujillo, conflict flared again between Haiti and the Dominican Republic. The Dominican representative asked for an Organ of Consultation under the Rio Treaty, alleging many acts by the Government of Haiti threatening the peace, chief among which was the forcible entry and occupation of the Dominican Embassy in Port-au-Prince by Haitian police. Haiti countered with a charge of preparation by Dominican forces of an invasion within twenty-four hours.

##### The Issue

The immediate issue was whether the Dominican Government had made out a prima facie case under Article 6 of the Rio Treaty. The further issues related to which country committed aggression against the other.

##### Terms of Reference and Composition

The OAS Council authorized the appointment of an investigating committee to investigate on the spot the "events denounced by the Dominican Government" and to

report thereon. The representatives of the Governments of Colombia, Bolivia, Chile, Ecuador and El Salvador constituted the Committee.

#### Operation and Performance

Immediately after its appointment, the Committee left for Haiti and in the first day achieved the transfer of some diplomatic asylees. On the third day the members heard the five charges of the Dominican Government and determined that their terms of reference were too narrow to consider them. Most of the Committee returned to Washington and for the first time in OAS history received enlarged terms of reference, including specifically the power to exercise conciliation or mediation functions. Armed with these new powers, the Committee returned to the Dominican Republic and explored all problems thoroughly. It sent two members to the border to verify troop withdrawal. This and the progress on asylees represented the solid achievements of the Committee.

The Committee's findings were accepted by the OAS Council, but in the light of further invasion scares the Council did not terminate its own status as Provisional Organ of Consultation, and that status still remains.

#### Conclusions

1. The action of the OAS was effective in that the prompt dispatch of an investigating committee calmed both coun-

tries and led their governments to take measures which would overcome the major obstacles to the maintenance of peaceful relations. In this sense the Investigating Committee's role was similar to that of the Inter-American Peace Committee since the issues dealt more with the intangible matters of aggressive and suspicious attitudes.

2. The Council, having invoked the Rio Treaty, found it necessary to continue to use its power as Provisional Organ of Consultation in view of the somewhat inconclusive results of its peace-making efforts. At this writing the case is still on the books of the Council.

### Cases under the Inter-American Peace Committee

#### 1. Situation Between the Dominican Republic and Cuba, 1948

##### Background

The first case to be considered by the Inter-American Peace Committee was brought by a special delegation of the Government of the Dominican Republic against the Government of Cuba on August 13, 1948.

##### The Issue

The procedures were so informal and the documentation so scanty that no record exists as to the nature of the Dominican Government's charge against Cuba.

##### Operation and Performance

The Committee was given no terms of reference. It succeeded in getting the parties to agree that bilateral negotiations were the most suitable method of solving the problem.

## 2. Situation Between Haiti and the Dominican Republic, 1949

This case was dealt with in connection with the consideration and rejection by the OAS Council in February 1949 of a request by the Government of Haiti for an application of the Rio Treaty: Case No. 2.

## 3. Situation Between Cuba and Peru, 1949

### Background

A dispute arose between the Governments of Cuba and Peru in early August 1949 concerning diplomatic asylum given by the Cuban Embassy in Lima to two Peruvian citizens.

### The Issue

The issue apparently was whether the Cuban Embassy was justified in giving asylum to the two Peruvians.

### Operation and Performance

It was unnecessary for the Inter-American Peace Committee to take any action because within two weeks of the request, the Cuban ambassador at Washington informed the Committee that its services would not be necessary, the diplomatic asylees having departed.

Conclusions

It is believed that the filing of Cuba's request with the Inter-American Peace Committee stimulated the Government of Peru into action so that the Committee's intervention became unnecessary.

4. Situation in the Caribbean, 1949

This case was covered in the discussion of Rio Treaty Case No. 3, entitled "Caribbean Cases, 1949-1950."

5. Invitation of the Government of Cuba, 1949

The Inter-American Peace Committee rejected the offer of the Cuban ambassador to visit Cuba and verify that there were no movements afoot for launching aggression against the Dominican Government.

This case is treated in the discussion of Rio Treaty Case No. 3, entitled "Caribbean Cases, 1949-1950."

## 6. Situation Between Cuba and the Dominican Republic, 1951

### Background

The harsh dictatorship of Generalissimo Trujillo was frequently, in this period, at odds with the democratic government then in power in Cuba, and this case, involving the former U.S. landing craft Quetzal, was one of a long series of plots and conspiracies based in one of the countries by political exiles and refugees from the other country. The Quetzal, captained by a leading Dominican revolutionary and manned by a mixed crew of Cubans, Guatemalans and Dominicans, was seized by the Dominican Navy. The Dominican courts condemned the Cuban and Guatemalan members of the crew to long periods of imprisonment.

### The Issue

The issue was whether the seizure was legal, thus whether the Dominican courts had jurisdiction over the sailors.

### Operation and Performance

The Peace Committee, fearing public debate between representatives of the parties at Washington, concentrated on conciliation efforts. These efforts were complicated when the Dominican Government pardoned the Guatemalan crew



but not the Cuban. The chairman succeeded in getting a promise of release of the Cuban crew and skillfully arranged a ceremonial session on Christmas Day, formally restoring peace and good-will between the parties.

Conclusions

1. This case illustrates the highly informal methods of the Inter-American Peace Committee.
2. The Committee gave both parties a neutral ground on which to negotiate and served as a catalyst to bring about a mutually acceptable solution.

## 7. Situation Between Colombia and Peru, 1953-1954

### Background

The Peruvian leader of the APRA Party, Victor Raúl Haya de la Torre, took asylum in the Colombian Embassy in Lima. The International Court of Justice had ruled in 1950 that Colombia was not required to surrender him to Peru, but neither was Peru required to give him a safe-conduct out of the country. In 1953 the Colombian Government appealed to the Inter-American Peace Committee for aid in solving the problem.

### The Issue

The issue was whether Haya de la Torre should be given safe-conduct out of Peru.

### Operation and Performance

Apparently the Inter-American Peace Committee had little to do with the final solution whereby the asylee was allowed to leave Peru. The solution was worked out in April 1954 during the Tenth Inter-American Conference at Caracas.

8. Controversy Between Guatemala, Honduras and  
Nicaragua, 1954

This case is considered in Rio Treaty Case No. 4.

9. Situation Between the Dominican Republic and Cuba, 1956

Background

Although General Batista had seized power in Cuba, bad relations continued between Cuba and the Dominican dictatorship.

The Issue

The issue was not clearly drawn but involved the usual revolutionary activity of exiles, public recriminations and insults.

Operation and Performance

The Inter-American Peace Committee made repeated efforts to calm the parties, but the upshot of its efforts was merely to urge the parties to resume bilateral negotiations.

Conclusions

No solution was achieved.

## 10. Invasion of Haiti, 1959

### Background

The Fifth Meeting of Consultation of Ministers of Foreign Affairs in Santiago in 1959 gave a new and broadened assignment to the Inter-American Peace Committee: to study the problem of international tensions in the Caribbean. Hitherto that Committee required the prior consent of all parties to a dispute in order to operate; now it was authorized to exercise its own initiative. In August 1959 the Government of Haiti complained that a mixed band of Cubans and Haitians had invaded Haiti from Cuba. Castro's government declared that it had been unable to prevent the expedition, thus causing the Haitian Government to fear its repetition.

### The Issue

Since the Government of Haiti made no formal charges against the Government of Cuba, the Committee considered this case as being only one item in its study of tensions in the Caribbean.

### Operation and Performance

A subcommittee of the Peace Committee visited Haiti but could not get permission to visit Cuba. It interviewed

five prisoners captured in the invasion and heard the Haitian Government's allegations at length.

Conclusions

The Committee itself felt that the interest shown by the OAS in the case contributed very much toward the prevention of another invasion.

11. Subversive Leaflets Against the Government  
of Venezuela, 1959

Background

In November 1959 the Government of Venezuela complained to the Inter-American Peace Committee that a plane of U.S. registry, piloted by two Cubans, had dropped leaflets over the island of Curacao, urging the Venezuelan Army to revolt. The plane had stopped in Nassau and Ciudad Trujillo after departing from Miami.

The Issue

Had the Dominican Government or high officials thereof connived at an attempt to violate Venezuelan sovereignty and arouse rebellion?

Operation and Performance

The Committee took statements from U.S. and Dutch authorities and private persons involved, including the Cuban citizens who had flown the plane from the Dominican Republic to Aruba. The Committee found that the venture, i.e. the subversive leaflet propaganda, "could not have been carried out without the connivance of the Dominican authorities."

Conclusions

Although the Committee did not visit Cuba or the Dominican Republic, it did all it possibly could. Its finding had little practical effect, and the situation continued to deteriorate.

12. Case of Ecuador and the Dominican Republic, 1960

Background

The Government of Ecuador requested the good offices of the Inter-American Peace Committee in February 1960, alleging that the Dominican Government was not permitting the Ecuadoran Embassy in Ciudad Trujillo the facilities necessary for its functions and that it would not issue safe-conducts for thirteen Dominican nationals who had taken asylum there.

The Issue

The issue was whether these charges, if true, constituted a violation of international law.

Terms of Reference and Composition

The Ecuadoran complaint invoked both the regular Statutes of the Peace Committee and the enlarged powers granted by the Fifth Meeting of Foreign Ministers in 1959. The Dominican Government recognized the validity of the Statutes but not of the enlarged powers. The Committee, under the chairmanship of U.S. Ambassador John C. Dreier, dodged the jurisdictional question. This did not affect the outcome of the case.



Operation and Performance

The Dominican Government refused to accept a joint declaration drafted by the Committee, and the latter reported to the OAS Council that it had failed in its efforts and footnoted its concern over the lack of cooperation of the Dominican Government.

Conclusions

The Committee's efforts and findings contributed to the growing antagonism toward the dictator, Trujillo, an antagonism which ultimately proved fatal to him.

13. Violation of Human Rights in the  
Dominican Republic, 1960

Background

The OAS Council decided that the Inter-American Peace Committee was an appropriate organ to hear the charges by the Government of Venezuela that the Government of the Dominican Republic was flagrantly violating human rights and thereby aggravating international tensions in the Caribbean.

The Issue

The issue was whether the Dominican Government was guilty as charged.

Terms of Reference and Composition

With the jurisdictional question resolved by the Council resolution, the Committee members appointed were the same as in the preceding case involving the Dominican Government. The Committee, under the chairmanship of U.S. Ambassador John C. Dreier, was composed of experienced diplomats.

Operation and Performance

The Committee started by requesting information from the member states of the OAS rather than from the parties.

The Dominican Government would not consent to a visit by the Committee. Nevertheless, the Committee, after consulting with governments and interrogating recent refugees from the Dominican Republic, found that there were flagrant violations of human rights in the Dominican Republic and that this definitely increased international tensions in the Caribbean.

Conclusions

1. Insofar as concerns the specific Venezuelan charge, the Committee did as good a job as possible.
2. The Committee's general report appears to have served a political purpose, far removed from the Committee's basic purpose to help governments settle their disputes.
3. It is questionable whether it was wise for the Fifth Meeting of Ministers of Foreign Affairs to have enlarged the powers of the Committee in the way it did.

14. Request of the Government of Nicaragua  
(Boundary Dispute), 1961

Background

As indicated in Rio Treaty Case No. 7, the International Court of Justice was to adjudicate the boundary dispute between Honduras and Nicaragua. On November 18, 1960, the Court found in favor of Honduras, and both countries accepted the decision. Difficulties arose over the method of carrying it out, and Nicaragua asked for the services of the Inter-American Peace Committee.

The Issue

How could the Committee devise a formula to carry out the Court's decision?

Operation and Performance

After hearing both sides the Committee drew up a "Basis of Arrangement," consisting essentially of immediate withdrawal by Nicaragua from what was now clearly Honduran territory and the establishment of a Mixed Commission, presided over by Ambassador Vicente Sánchez Gavito of Mexico, to supervise orderly relocation of populations and to delimit and mark the boundary. By August 5, 1961, the Mixed Commission had executed the task.

Conclusions

1. This was one of the outstanding successes of the Inter-American Peace Committee.
2. The task was carried out entirely by Latin Americans, the United States not being a member of the Peace Committee at this time.

15. Request of the Government of Mexico  
(Guatemalan Dispute), 1961

Background

The Government of Mexico on June 2, 1961, informed the Peace Committee that the Government of Guatemala had charged that Communist troops were being trained on lands leased or owned by former president, General Lázaro Cárdenas, for an invasion of Guatemalan territory. The Government of Guatemala feared that this was part of the Castro Communist conspiracy in the Western Hemisphere.

The Issue

The issue was what seriousness to attach to the charge and how to handle Mexico's request for an investigation.

Operation and Performance

The Peace Committee invited Guatemala to supply "complementary data" and when this was not forthcoming, the case was dropped.

Conclusions

The case is of slight importance.

16. Request of the Government of Peru  
(Human Rights in Cuba), 1961

Background

For nearly two years before November 1961 when this case arose, the U.S. and some Latin American countries had been trying to do something about Castro-Communism in this hemisphere. While the San José, Costa Rica, Meeting of Ministers of Foreign Affairs in August 1960 had condemned Sino-Soviet intervention in the hemisphere, it did not mention Cuba by name. Peru started in October 1961 to invoke the Rio Treaty to consider the situation in Cuba, but, in accordance with a resolution of the OAS Council, brought the case before the Inter-American Peace Committee under the broad powers of the Committee to investigate international tensions in the Caribbean.

The Issue

The issue was whether the Government of Cuba was guilty of the denial of human rights in Cuba and of subverting legally constituted governments of Latin America by using diplomatic officers, official missions and secret agents.

Operation and Performance

The Committee's invitation to the Cuban Government to attend meetings and a request to visit Cuba were rejected in terms the Committee deemed unacceptable. After assembly of documents, interrogation of recent exiles and consultations with governments, the Committee issued a report constituting a severe indictment of the Cuban Government.

Conclusions

The Committee's report paved the way for the Punta del Este Conference in January 1962 which excluded the Government of Cuba from the Inter-American System.



CASES UNDER THE UNITED NATIONS OR SPECIAL  
MULTINATIONAL ARRANGEMENTS

Major Cases Handled by the United Nations

1. The Independence and Territorial Integrity of Greece,  
1946-1954

Background

During World War II, events developed in such a manner that the Greek monarchy became a symbol of the extreme right, with the National Liberation Movement and the underground resistance to the Germans coming under the leadership of the Communist Party. The British, however, supported a rival underground group with non-Communist leadership. At the end of the war the efforts of the Communists to take over the government led to civil war, which resulted in the destruction of the Communist underground as a fighting force. The Soviet Union urged the remnants of the underground to wage guerrilla warfare in the north of Greece where they could receive assistance from the neighboring Communist regimes of Albania, Bulgaria and Yugoslavia. The adverse economic conditions in Greece encouraged political and economic disorders.

The Soviet bloc complained twice to the Security Council that the British troops were interfering with the internal af-

fairs of Greece, but these protests led to no action. On December 3, 1946, the Greek Government complained to the Security Council that Albania, Bulgaria, and Yugoslavia were assisting the guerrilla forces in northern Greece. The Soviet Union agreed to a U.S. proposal for the appointment of a Commission of Investigation to determine whether the situation constituted a threat to the maintenance of international peace. This Commission was later replaced by the UN Special Committee on the Balkans (UNSCOB).

#### The Issue

The original issue was to determine whether the situation on the northern border of Greece endangered international peace. When the General Assembly found in the affirmative on that issue, the newly constituted mission, UNSCOB, was confronted with the problems of settling the controversy and maintaining the peace.

#### Terms of Reference and Composition

The eleven members of the Commission of Investigation were the states represented on the Security Council. The Commission was to investigate conditions on both sides of the frontier and report to the Security Council. The personnel of the eleven delegations totaled fifty-six and in addition the UN Secretary-General provided a secretariat numbering twenty-seven. The Commission heard witnesses in Greece and its northern neighbors from the end of January 1947 until

April. When the Commission left Greece to prepare its report, the Soviet Union objected to its leaving a "border team" in Greece on the ground that the Commission had exhausted its terms of reference. As the Soviet Union vetoed all efforts to have the Security Council approve the Commission's report and continue its activities, the U.S. proposed and obtained removal of the Greek case from the Security Council agenda and brought the problem before the General Assembly.

The General Assembly in the fall of 1947 established, over Soviet objections, the eleven-man United Nations Special Committee on the Balkans with far broader terms of reference than the Security Council Commission of Investigation. In general, UNSCOB had full authority to observe the maintenance of peace and also to use its good offices to settle disputed matters.

UNSCOB was composed of the eleven states then members of the Security Council. However, the Soviet Union and Poland declined to participate. When the Communist neighbors of Greece declined to cooperate with UNSCOB, UNSCOB organized itself so as to provide full observation posts on the Greek side of the border. The observer posts were manned both by delegation personnel and UN secretariat personnel.

#### Operations and Performance

As previously indicated, the Security Council Commission of Investigation, in the main, listened to witnesses and filed

a report.

UNSCOB in contrast investigated and reported on complaints of border violations and observed conditions along the border. While Yugoslavia, Bulgaria and Albania never recognized UNSCOB, they continued to file complaints with the UN which UNSCOB tried to investigate. UNSCOB was able to establish the support of the guerrilla movement by the Communist neighbors of Greece.

UNSCOB was most active in 1948 and 1949. After the Greek military victory at Konitza near the Albanian frontier in 1949, most of the guerrillas in that area withdrew across the Albanian border.

By 1950 the Yugoslav Government, as a result of its conflict with the Soviet Union, had closed its border which had become tranquil.

Because of improved conditions UNSCOB recommended its own abolition in 1951 and its replacement by the recently created Peace Observation Commission (POC). The POC established in December 1951 a Balkan Subcommittee which at the request of the Greek Government sent six observers to Greece. The observer group was discontinued in 1954.

### Conclusions

1. The peace-observation activities along the northern frontier of Greece reached a successful conclusion, since, by 1951, the threat to the political integrity of Greece had come to an end. While a variety of political and economic factors contributed to this result, it seems clear that

the UN peace-observation activities were an important factor.

2. UNSCOB established the usefulness of peace-observation activities limited to one side of a frontier.
3. Despite the failure of the Communists to cooperate, UNSCOB tried to investigate Communist as well as Greek complaints and to be objective in its judgments. This attitude of objectivity enhanced its effectiveness.
4. UNSCOB developed techniques of border surveillance and of logistic support followed by later UN missions.
5. UNSCOB was a commission of instructed delegates. This caused less difficulty than in other similarly constituted missions, both because of the high caliber of the delegates and because the U.S.S.R. and Poland declined to sit. However, in its most important activity, border surveillance, the delegation personnel acted as individuals and seldom called for instructions from their governments. This helped establish the pattern for later missions which utilized personnel furnished by the Secretary-General.

## 2. The Problem of Palestine, 1947

### Background

With the collapse of the Ottoman Empire at the end of World War I, Palestine was placed under a League of Nations mandate with Great Britain as the mandatory power. During the period between the First and Second World Wars, no progress was made towards reconciling the conflicting views of Arabs and Jews as to the future of the area. The conflicts frequently resulted in violence, which increased after the migration to Palestine of large numbers of Jews who had been driven from Hitlerite Germany. Great Britain, under attack from both Arabs and Jews, determined to end its mandate and accordingly brought the problem before the United Nations in April 1947. A committee appointed by the UN General Assembly (the Special Committee on Palestine) in its majority report recommended the partition of Palestine into an Arab state and a Jewish state, with an international trusteeship for Jerusalem. A General Assembly resolution on November 29, 1947, followed generally the recommendations of this report and set up the United Nations Commission for Palestine to implement the resolution. The Arab states and Arabs of Palestine immediately rejected the resolution and announced their intention to use force to prevent its implementation. Violence increased in Palestine during the winter months. The

U.S. on April 16, 1948, called for a special session of the General Assembly and proposed a UN Trusteeship for Palestine in lieu of the partition plan. Before the General Assembly could act the British mandate expired on May 15, 1948, and a government organized by the Jewish Agency for Palestine proclaimed the establishment of the State of Israel. The U.S., the Soviet Union and many other governments immediately recognized the Israeli Government. The neighboring Arab states responded by moving their armies into Israel. After much fighting the Israelis repulsed the attacks and occupied practically the entire area awarded to the Jewish state under the General Assembly resolution of November 29, 1947, as well as part of the area awarded to the intended Arab state and part of Jerusalem. Jordan occupied the remainder of Palestine and Jerusalem, except for the narrow Gaza Strip along the Mediterranean Sea at the southeast corner of Palestine, which was occupied by Egypt.

The Security Council in April, recognizing the imminent breakdown of law and order, set up a Truce Commission to ameliorate the situation. In May the General Assembly established the office of the UN Mediator primarily to provide a peaceful adjustment of the situation in Palestine. However, the Mediator almost immediately received additional functions relating to the maintenance of peace.

The Truce Commission and the Mediator are the ancestors of the machinery presently dealing with the problem of Palestine.

### The Issue

The problem has been two-fold: (1) to maintain law and order, primarily through preventing violations of the borders separating Israel from its neighbors. The progression was from cease-fire to truce to armistice. (2) to facilitate a peaceful settlement of the controversies between Israel and the neighboring Arab states.

### Terms of Reference and Composition

The Truce Commission established by the Security Council consisted of representatives of three of the four states having career consuls in Jerusalem (Belgium, France and the U.S.) -- Syria, the fourth state, declined to serve. The functions of the Truce Commission related solely to the restoration of law and order. The Mediator, Count Bernadotte, was originally appointed primarily to facilitate a long-range settlement of the Palestine problem, but later received some of the functions already assigned to the Truce Commission. During the period from April 1948 until July 1949, when the armistice agreements took effect, the Truce Commission furnished the military personnel for both itself and the Mediator. The peak number of military personnel was 682. The Truce Commission carried on the peace-observation functions in Jerusalem, and the Mediator in the rest of Palestine and its Arab neighbors. The efforts of both groups met with some success in reducing violent incidents and bringing about cease-fires, truces, and ultimately the armistice agreements.



With the reduction of violence and the establishment of armistice demarcation lines, fundamental changes took place in the extent and nature of the peace observation. The number of UN military observers was reduced from the peak of 682 to approximately fifty. The area of peace observation became the boundaries of Israel and its neighbors, rather than all of Palestine and adjoining Arab states. The office of the UN Mediator was abolished, and its functions relating to a long-term settlement of the Palestine problem were transferred to the Palestine Conciliation Commission consisting of three states - U.S., France and Turkey. The primary functions of peace observation under the armistice agreements devolved upon Mixed Armistice Commissions (MAC's) set up for each boundary, consisting of an equal number of representatives of Israel and the adjoining Arab state under the chairmanship of a senior officer of the UN Truce Supervision Organization (UNTSO). UNTSO provided the military personnel and much of the logistic support for the MAC's. The UNTSO personnel became UN Secretariat personnel and were drawn from states in addition to the original members of UNTSO. The Chief-of-Staff of UNTSO had certain direct responsibilities in reporting to the UN. However, his position was anomalous in that there was no defined line of command from the Secretary-General to the Chief of UNTSO to the MAC's.

This pattern of peace-observation continued with little change until the Suez hostilities in 1956. The General Assembly almost immediately established a United Nations Emergency Force (UNEF) with some 5,000 military personnel, stationed in Egypt and the Egyptian-occupied Gaza Strip. After the withdrawal of the Israeli, French and British troops, the function of UNEF was to prevent violations of the border between Israel and Egypt and to ensure freedom of navigation to the Israeli port of Elath in the Gulf of Aqaba.

#### Operations

During the period from April 1948 until July 1949, the Mediator and UNTSO, acting under the direction of the UN Security Council and with a large staff, succeeded in restoring some semblance of law and order and achieved armistice agreements between Israel and all Arab states bordering on Israel.

The Mixed Armistice Commissions, for several years after the armistices, succeeded fairly well in preventing border violations. The Lebanon border has remained quiet to the present. However, after 1951 conditions along the Syrian, Jordanian and Egyptian boundaries rapidly deteriorated with increasing border violations, reprisals and counter-reprisals. In 1956 the armistice with Egypt collapsed when Israeli armed forces invaded Egypt and the Gaza Strip, and Britain and France occupied the Suez Canal. The establishment of UNEF

to obtain the withdrawal of Israeli, British and French forces and thereafter to watch the Israeli-Egyptian border, ameliorated conditions throughout the area. The Israeli-Jordanian border became reasonably secure when raiding parties from the Gaza Strip or Egypt were no longer in a position to move into Jordan and thence to Israel. With the elimination of Arab incursions into Israel, Israeli retaliatory raids likewise ceased. Only along the Syrian border have there been serious disturbances since 1956.

Little progress had been made, however, toward a solution of the underlying problems of the relations of Israel and the Arabs. Since 1952 the PCC has been relatively inactive and has concentrated on minor issues, the solution of which might have some effect in ameliorating Arab-Israeli relationships.

#### Conclusions

The Palestine situation is the prime example of the difficulty involved in restraining violence when prospects of a settlement are dim or non-existent. The prestige of a UN mission erodes as time passes with no progress toward a political settlement.

There seems to be no simple answer to the basic problem of restraining violence when the controversy causing the violence seems unsolvable. However, in at least three respects the efforts to solve the Palestine problem settled

into modalities which seemed to aggravate rather than moderate the long-range negotiating atmosphere.

1. Some of the boundaries are artificial and ill-suited for a peaceful area.
2. The terms of reference of the MAC's, the Chief-of-Staff and UNTSO and the relationship among them are vague and woefully inadequate.
3. The conciliation function is entrusted to a group which is unable to obtain the international prestige required for successful operations.

Despite all handicaps, the peace-observation machinery, considering the adverse circumstances, has functioned successfully.

The Palestine operations have become the prime source of experience in guiding the UN on other problems involving both peace-keeping and peace-observation, in furnishing experienced staff, the pattern for logistic arrangements and even the line of authority from the military observers to the Security Council. (In the latter instance, the line of authority which the Secretary-General advocated but never obtained for UNTSO became the pattern for other areas.)

Palestine is the extreme case of an operation anchored at dead center. The fear of upsetting the precarious balances which prevent open warfare results in an inertia, where efforts for progress are snuffed out because of the possibility of retrogression.

### 3. Problems Relating to Indonesian Independence, 1947-1951

#### Background

On August 15, 1945, when Japan surrendered, Japanese forces were in occupation of all of Indonesia. Two days later the two leaders of the independence movement, Sukarno and Hatta, proclaimed the independence of Indonesia and commenced steps to set up a government and a national army. During the period between August and November 1945, the Indonesian leaders had the opportunity to consolidate their position in Java and Sumatra (though not in the other islands) and continued to control these islands, except for enclaves surrounding the cities, after the landing of Dutch troops.

During the war the Dutch Queen had called for the post-war reconstruction of Indonesia "on the solid foundation of complete partnership" with the Netherlands. The Dutch, however, were initially unwilling to negotiate with Sukarno. After lengthy and stormy negotiations, an agreement was initialed by the Dutch and the Republic of Indonesia on November 15, 1946, known as the Linggadjati Agreement, for a truce and for "the rapid formation of a sovereign democratic State on a federal basis to be called the United States of Indonesia" (USI). The Agreement was formally signed on March 25, 1947, though even at that time, both the Netherlands and the Republic of Indonesia

(Sukarno's group) had conditioned their approval on conflicting interpretations.

The Soviet Union brought the question of Indonesia before the Security Council in January 1946, but the Security Council took no action at that time. The Indonesian problem was again brought before the Security Council in July 1947 and remained before the Security Council until April 3, 1951, after Indonesia had achieved complete independence.

#### The Issue

The UN was not concerned with whether Indonesia should gain its independence - that had already been decided at Linggadjati - but merely with the transition from the existing situation to independence and the maintenance of peace during the transition period. Both the UN peace-observation and the good offices machinery arose from the attempted implementation of the Linggadjati Agreement. Even the earliest reports of the UN peace observers stated that the best way to maintain peace was to expedite the transition to independence. Therefore, the chief emphasis was always on negotiating the steps to independence. The peace-observation group in the main carried on activities, which varied from time to time, but were ancillary to the main objective of implementing the agreements negotiated between the Dutch and the Republic of Indonesia leaders in which the UN Committees played a large role.

Terms of Reference and Composition

The peace-observation and good offices functions were performed by separate groups.

During the entire period from August 1947 to 1951, the Consular Commission established by the Security Council had the responsibility for maintaining order and for the functions which might be described as peace-observation.

However, except for its first report on conditions in Indonesia (and one minor report at a later date) the Consular Commission never reported directly to the UN Security Council. After the first report, the Security Council requested the Consular Commission to place its military observers at the disposal of the Good Offices Committee, and this arrangement continued.

The Consular Commission consisted of the six Consul Generals stationed in Djakarta (China, France, U.K., Belgium, Australia and the U.S.). The peak number of military observers was fifty-five in the first quarter of 1948.

The Good Offices Committee was established at the same time as the Consular Commission to assist in the settlement of the controversy between the Netherlands and the Republic of Indonesia. It consisted of three members of the Security Council, each party designating one and the two selecting a third. The Republic of Indonesia designated Australia; the Netherlands designated Belgium; and the two chose the U.S. as the third member.

While theoretically, the Committee consisted of states, the representatives, and especially those from the U.S., were extremely able and were never entirely certain whether they were acting primarily to represent their states or to further the objectives of the UN.

The Netherlands gave a narrow interpretation to the authority of the Good Offices Committee, claiming, for example, that it could not make public its recommendations except with the agreement of both parties. The same type of limitation according to the Dutch extended to the peace-observation activities of the Consular Commission which, at crucial times, was not permitted freedom of movement. After the so-called second Dutch "police action" in December 1948, the Security Council reconstituted the Good Offices Committee in a resolution of January 28, 1949, as the United Nations Commission for Indonesia (UNCI) with vastly increased authority to intervene in the negotiations between the Dutch and the Republic of Indonesia. The Consular Commission as the peace-observation arm of the UNCI was to assist in carrying out specific actions which had to take place in order to establish the independence of Indonesia.

#### Operations and Performance

The more important function of the UN in Indonesia was to implement the agreements to establish Indonesian independence.

The chief events in connection with this phase of the UN



activities were:

1. The so-called Renville Truce Agreement signed in January 1948.
2. The Bandung Conference convened on May 27, 1948, where the Dutch sought a political settlement without dealing with the Republic of Indonesia leaders or consulting with the Good Offices Committee.
3. The deterioration of the truce following the Bandung Conference leading to the rise of violence, the Dutch repudiation of the truce on December 19, 1948, and the so-called second Dutch "police action" imprisoning Sukarno and other Republic of Indonesia leaders and capturing Djogjakarta, the Republican capital.
4. The Security Council resolution of January 28, 1949 censuring the Dutch and the subsequent Dutch decision to convene a "Round Table" Conference in The Hague, which resulted in the return of the Republic of Indonesia leaders to Djogjakarta in July 1949 and the independence of Indonesia on December 27, 1949.
5. The withdrawal of Dutch forces substantially completed by April 13, 1951.

The peace-observation activities varied considerably from time to time, and were directly related to progress of the political settlement. The Consular Commission lacked

the personnel and resources to do everything required to maintain peace everywhere, and at the request of the Good Offices Committee and UNCI it concentrated on activities most suited to expedite the peaceful settlement. These activities included:

1. Reporting on the success of the Dutch in consolidating their authority in the regions which they claimed to hold.
2. Demarcation of a truce line in early 1948 and arranging for the evacuation of Indonesian forces remaining in pockets on the Dutch side of the line.
3. Investigating violations of the truce and reporting on the erosion of the truce during the fall of 1948.
4. Reporting of Dutch activities at the time of the second "police action" and on the Netherlands' failure to consolidate its authority in Republic of Indonesia territory.
5. Arranging for the withdrawal of Dutch forces from Djog-jakarta in June 1949 and the transfer of the government to the Republic of Indonesia.
6. Working out measures to effectuate the cessation of guerrilla warfare.
7. Arranging after the cessation of hostilities for exchange of prisoners of war, the repatriation of the Royal Netherlands Army and the dissolution of the Netherlands Indonesian Army.

### Conclusions

The chief objective of the UN missions dealing with the independence of Indonesia was to work out arrangements between the Netherlands and the Indonesian leaders to facilitate the transition of Indonesia to independence. The UN achieved this objective.

The chief peace-observation tasks were ancillary to the main objective. The limited personnel and resources available for peace-observation were devoted to a series of changing specific activities most likely to advance the main objective. The Consular Commission had considerable success in carrying out practically all of these activities.

The experience in Indonesia showed clearly the desirability of maximum association of peace-observation with the UN: use of UN personnel, UN logistic support, a UN flag, etc.

The experience in Indonesia also showed the unexpectedly wide range of activities which come under the rubric of peace-observation.

The experience in Indonesia underlined the dangers to a successful operation where the terms of reference permit the parties to interfere with and limit the activities of a mission, and where the resources of the mission are inadequate to achieve its task.

#### 4. Establishment of the Independence of Korea, 1947-1964

##### a. Prior to Hostilities

##### Background

At the time of the Japanese armistice in 1945, by agreement between the Soviet Union and the U.S., the Soviet Union received the surrender of Japanese forces in Korea north of the 38th Parallel, and the U.S. received the surrender of the forces south of the 38th Parallel. This resulted in the artificial division of Korea into two separate regimes - a Communist-operated regime in the north and a non-Communist regime in the south. When negotiations between the Soviet Union and the U.S. failed to reach agreement on arrangements for a provisional government for all of Korea, the U.S. submitted the problem of the independence of Korea to the United Nations General Assembly in September 1947. Over the Soviet objection, the General Assembly established in 1947 the UN Temporary Commission on Korea (UNTCOK), which was replaced a year later by the UN Commission on Korea (UNCOK).

##### The Issue

UNTCOK was established to assist in bringing about the unification of Korea as set forth below, but its functions and those of its successor, UNCOK, changed.

Terms of Reference and Composition

UNTCOK consisted of the representatives of nine states - one of which, the Ukrainian S.S.R., declined to serve. Its primary function was to act as observers of elections to establish a unified Korean Government, and of troop withdrawals. This depended on cooperation of the North Korean Communists. When cooperation was not forthcoming, UNTCOK, with ample legal authority under the resolutions establishing it, sought the advice of the General Assembly's Interim Committee, which the Soviet Union considered an illegal body. The Interim Committee determined that UNTCOK should proceed to arrange for elections in South Korea alone. UNTCOK thus, in effect, became the adviser of one party rather than the impartial observer of both parties.

In 1948, UNCOK which consisted of seven states, was established to carry on the functions of UNTCOK and in particular to lend its good offices to bring about the unification of Korea and to observe troop withdrawals from both North and South Korea. The Communists declined likewise to cooperate with UNCOK. In 1949, the functions of UNCOK were enlarged to include observation and reporting on any developments which might lead to or otherwise involve military conflict in Korea.

The delegation personnel of UNTCOK and UNCOK never exceeded fifteen, and the UN Secretariat personnel never exceed-

ed thirty-two.

Operations and Performance

UNTCOK failed in its efforts to make contact with the North Koreans. UNTCOK was sharply divided on the desirability of going forward with an election in South Korea alone, with half of the Commission believing that an election in the South would crystalize and make permanent the division of the country. After the Interim Committee instruction to UNTCOK to go forward with arrangements for an election in South Korea, UNTCOK actively observed and advised on both the preparations and the elections. UNTCOK probably exerted a favorable influence.

UNCOCK in its first year attempted once more to establish contact with the North Koreans, but failed. It therefore had little to do beyond reporting on political and economic conditions in the South and observing the withdrawal of U.S. troops.

In its second year, UNCOCK observed another Korean election and belatedly requested the Secretary-General to furnish military observers to observe developments along the border. Fortunately the observers reached the border in time to report on the situation as it existed on June 24, 1950, the day before the Communist invasion of South Korea. The observers reported that there were no preparations in the South for a military attack and that the Northern regime was carrying out a well-planned,

concerted, and full-scale invasion. This reporting was of inestimable value in the UN Security Council meetings after the Communist invasion.

The commencement of hostilities ended UNCOK's mission, and it was abolished late in 1950.

The later UN peace-observation activities after the armistice are considered separately.

#### Conclusions

1. UNTCOK and UNCOK had limited success in observing and exerting a good influence on the elections in South Korea, and at the very end in determining that the North Koreans were responsible for the breach of the peace in invading South Korea.
2. In the main the performances of UNTCOK and UNCOK are more significant as warnings of pitfalls than as examples of achievements.
3. UNTCOK and UNCOK illustrated the limitations and difficulties of attempting to utilize UN peace-observation in situations of great power confrontation.
4. The known dissension among members of both UNTCOK and UNCOK underlined the difficulties of utilizing instructed delegations in peace-observation missions. Either a talented individual or technically qualified experts appointed by either the UN Secretariat or individual governments would

have been better qualified to conduct the mission activities.

5. The contrast between the efficient performance of the UN Secretariat and the weaknesses of the national delegations did much to enhance the prestige of the former.
6. The hopelessly inadequate terms of reference of both groups hindered their operations.
7. The fact that UNTCOK and UNCOK had positive achievements despite all handicaps is strong evidence of the desirability of the presence of representatives of an international organization in an area during a period of crisis.

b. The Period after 1950

Background

The invasion of South Korea by the Communist forces from the North ended peace observation just as it ended the peace. UNCOK was abolished by the 1950 General Assembly. In its place the General Assembly set up the United Nations Committee for the Unification and Rehabilitation of Korea (UNCURK) which succeeded to the functions of UNCOK. If progress had been made toward a unified Korea, UNCURK would have had substantial peace-observation functions. In the absence of such progress, UNCURK has limited itself to reporting on the international relations of the South Korean Government and political and



economic conditions in South Korea - reports which have not invariably been favorable to the South Korean Government. UNCURK is in effect a standby organization awaiting the superseding of the armistice by a peace settlement.

After two years of bitter negotiations between the Commander-in-Chief of the United Nations Command on the one hand and the Commanders of the (North) Korean People's Army and the Chinese People's Volunteers on the other, an armistice agreement was achieved on July 27, 1953. This Agreement provided for substantial peace-observation activities. The Agreement and, in theory at least, the peace-observation activities still continue.

#### The Issue

##### The Armistice Agreement:

1. Established a demilitarized zone between North and South Korea and set up machinery to prevent incursions from either side into the zone.
2. Forbade the introduction into Korea of reinforcing military personnel or of certain types of armaments and set up machinery to detect violations of these provisions.

#### Terms of Reference and Composition

The Military Armistice Commission (MAC), consisting of five senior officers from each side, had the function of in-

vestigating violations of the Armistice Agreement in the demilitarized zone (and also in the Han River Estuary). It set up joint observer teams consisting of equal numbers of UN and Communist military officers to perform this function. The MAC could call on the Neutral Nations Supervisory Commission (NNSC) to conduct special observations outside the zone.

The NNSC consisted of four senior officers: two nominated by the UN Command - one each from Switzerland and Sweden; two nominated by the Koreans and Chinese - one each from Czechoslovakia and Poland. The NNSC had the functions of conducting inspections and reporting the results to the MAC in connection with the agreements of both sides: (1) to "cease the introduction into Korea of reinforcing military personnel" and (2) to "cease the introduction into Korea of reinforcing combat aircraft, armored vehicles, weapons, and ammunition." The Armistice Agreement provided for rotation of personnel and replacement of armaments. The NNSC under the Armistice Agreement operated through twenty Neutral Nations Inspection teams, ten stationed at specified ports, five in North Korea and five in South Korea; and ten mobile teams held in reserve in the vicinity of Panmunjom. Each inspection team consisted of not less than four officers, two from the Swiss-Swedish contingents and

two from the Polish-Czech contingent. Each of the four contingents originally numbered about ninety-five. The NNSC itself met daily in Panmunjom.

#### Operation and Performance

Even before the establishment of the NNSC, the Swiss and Swedish Governments had pointed out the improbability of the Poles and Czechs being neutral. Within the first month of its operations, it became apparent that entries and exits of materials and personnel were taking place in North Korea outside the five ports where the observer teams were stationed. The Swiss and Swedish contingents showed great ingenuity in their efforts to detect violations but were frustrated by a variety of Communist stratagems, which are described in the case study.<sup>1</sup>

When it became apparent that North Korea was increasing its military strength in violation of the armistice, the NNSC at the request of the UN Command first reduced the number of observation posts and in 1956 eliminated them altogether. At the same time, the mobile teams were reduced in number and ultimately eliminated. In 1957 the U.S., in its capacity as the Unified Command, decided to proceed with the rearmament of South Korea. The NNSC still meets for five minutes every day in Panmunjom but transacts no business.

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<sup>1</sup> See Appendix III, Part One, pp. 323-328.

In contrast, the Communists apparently wished to avoid incidents in the demilitarized zone which as a result have been reduced to a minimum. The MAC machinery satisfactorily investigates and deals with the few incidents that take place.

#### Conclusions

1. The NNSC was doomed from the start. It was not "neutral" and its terms of reference were inadequate to permit any genuine freedom of movement and inadequate in many other respects.
2. The NNSC reports furnish a textbook of methods of evading commitments. This experience has been useful in setting up other peace-observation missions.
3. Since the failure of the NNSC was foreseen in advance, the experiment could be justified only because the U.S. had a "fallback" position. If North Korea, in violation of the Armistice Agreement, strengthened its forces and equipment, the U.S. could do likewise in South Korea.
4. The MAC, though it consisted solely of representatives in equal numbers of the antagonists, was able to prevent violations of the demilitarized zone because both sides wished that result.

## 5. The Problem of Kashmir, 1948-

### Background

Kashmir was one of 500 princely states whose status was left undetermined when, at the end of World War II, the Indian subcontinent was partitioned into the independent nations of India and Pakistan. Kashmir, contiguous to both Pakistan and India and with a mixed though predominantly Moslem people, quickly became an object of contention and the scene of an armed struggle.

The Hindu dynasty, which after 1840 ruled a predominantly Moslem population, was never closely identified with the indigenous population. Therefore, the decision of the rulers in 1947 to adhere to India could not be deemed a reflection of any national sentiment. The Sheik Abdullah, a Moslem, who was in charge of the government at that time and who comes closest to being a national hero of Kashmir, supported the decision to be sure, but maintained that the ultimate disposition would be decided by a free expression of the will of the population.

On the basis of the original decision of accession to India, the Indian Government moved its troops into Kashmir. On January 1, 1948, the Indian Government brought before the Security Council the charge that Pakistan was assisting

raiders who were attacking Kashmir, which India considered a part of its territories. The Kashmir problem has been before the Security Council ever since.

#### The Issue

The issue presented to the UN is two-fold: (1) to restore order in Kashmir; (2) to arrange for the ultimate disposition of the territory.

#### Terms of Reference and Composition

On January 20, 1948, the Security Council established the UN Commission for India and Pakistan (UNCIP), composed of representatives of three UN members, one selected by Pakistan, one by India and the third chosen by the other two, with the dual function of working out a procedure for restoration of peace and of exercising "a mediatory influence likely to smooth away difficulties." The Commission was later enlarged to five, Belgium and Colombia being added. In April 1948 the Security Council approved a resolution calling for restoration of order in Kashmir followed by a plebiscite and providing for military observers in Kashmir.

When the Commission arrived in the subcontinent, it learned for the first time that regular Pakistani troops had been introduced into Kashmir. The first order of business therefore was a cease-fire. This proved relatively easy to accomplish partly because of the cordial relationships between

the British-trained military commands of the two countries. A cease-fire became effective on January 1, 1949, and a cease-fire line was established on July 27, 1949. A UN military adviser with a few assistants arrived in the subcontinent on the day of the cease-fire. They were immediately assigned to duty along the cease-fire line. Their number was almost immediately increased to thirty-five and has varied since then from thirty to a peak of sixty-five.

Theoretically the military adviser reported to UNCIP, which the Security Council replaced with a single UN representative beginning in March 1950. However, almost immediately General R.H. Nimmo from Australia, who has occupied the position as military adviser continuously since September 1950, began to report directly to the Secretary-General, despite the absence of Security Council authorization for such a procedure.

#### Operations and Performance

The procedures and methods of operation of the UN Military Observer Group for India and Pakistan (UNMOGIP) were worked out by agreement between the high military officials of India and Pakistan in early 1949 and have not changed since. Field observer teams consisting of two or three military observers and one radio operator are stationed with Pakistani

and Indian military units on either side of the line. UNMOGIP in addition has a headquarters staff, located six months of the year in Pakistan and six months in India, and liaison units with both governments.

UNMOGIP investigates and attempts to settle border incidents, assists in the control of civilians in the demilitarized zones along the truce line, and analyzes confidential military information furnished by both India and Pakistan to prevent a dangerous military buildup on either side of the line. This latter function can be performed only so long as both sides have full confidence in General Nimmo and UNMOGIP. This is one of the reasons why UNMOGIP reports only to the Secretary-General through confidential communications.

The public reports of UNMOGIP are too scanty to permit any close study of its day-to-day operations, but it is clear that incidents have been reduced to a minimum. The conditions along the border were tranquil until 1954. From 1954 to 1961, there was an alarming increase in the number of incidents, a circumstance which coincided in time with the tenure of Krishna Menon as Indian Defense Minister. Since then, in the main, border conditions have slightly improved. General Nimmo and UNMOGIP retain the confidence of both sides.

#### Conclusions

1. UNMOGIP has had outstanding success in reducing to a minimum incidents of violence. Perhaps the main factor in



this success was the desire of the military leaders of both countries that the operation should be a success and their willingness to agree to the specific arrangements most likely to achieve a successful operation. UNMOGIP has thus become a model of efficient peace-observation.

2. Important elements in the success of UNMOGIP are the absence of publicity concerning its operations and the intimate association of the military observers with the Indian and Pakistani military forces.
3. Practically no progress has been made toward a political settlement of the Kashmir problem. In 1964, some evidence has begun to accumulate that postponement of a political settlement will eventually erode and destroy the foundation for a cease-fire.
4. In Kashmir, as in Palestine, even a time-table for termination of UN peace-observation is not in prospect.

## 6. The 1958 Middle East Crisis

### a. Lebanon

#### Background

Faced with an open rebellion, the Lebanese Government appealed to the Security Council, charging that the United Arab Republic was endangering peace in the Middle East by intervening in Lebanese internal affairs through the infiltration of armed bands, destruction of life and property, participation in terrorism and rebellion and the supply of arms to the Lebanese insurgents. When nothing came of a similar complaint to the League of Arab States, attention focused on the stormy and tense debates in the Security Council. A draft resolution submitted by Sweden, providing for the urgent dispatch of an observer group to Lebanon, was passed by a vote of 10 in favor with the Soviet Union abstaining.

#### The Issue

The problem was to decide whether the situation was a domestic rebellion or whether it was being supported by a foreign power as alleged and might be internationalized with the attendant dangers of open international hostilities.

#### Terms of Reference and Composition

The observation group's terms of reference were "to proceed to Lebanon so as to ensure that there is no illegal infiltration of personnel or supply of arms or other materiel across the Lebanese borders" and to keep the Security Council informed through the Secretary-General. The ambiguity involved in this mandate - whether the group was authorized to prevent illegal infiltration or merely to determine its existence - was resolved by the Secretary-General in favor of observation and fact finding alone.

After borrowing observers and administrative personnel from UN groups in the area (UNTSO and UNRWA) on an emergency basis, the Secretary-General announced the appointment of a top-level observer group consisting of ex-President Galo Plaza of Ecuador, Major General Odd Bull of Norway and Rajeshwar Dayal of India. An initial complement of ninety-five observers was recruited within a fortnight, and by November UNOGIL (United Nations Observer Group in Lebanon) had reached its maximum strength of 591 military personnel from twenty-one countries. The group's equipment included light aircraft and helicopters for aerial reconnaissance.

#### Operation and Performance

Faced with problems of mountainous terrain and large opposition-held areas, UNOGIL gradually extended its

coverage of the frontier through jeep patrols, observation posts, and aerial reconnaissance. The observer group encountered the displeasure of the Lebanese Government in the early phases of its operations by its reports of minimal infiltration of men and arms from Syria. The dispatch of U.S. troops to Lebanon as a result of the July 14 revolt in Iraq further complicated the situation. The presidential election held on July 31 led to a marked improvement in the domestic situation, and illegal border traffic diminished to the point where UNOGIL was able to withdraw early in December.

#### Conclusions

The United Nations demonstrated that it was capable of mounting a large and complex operation involving observers from many countries in a short period. Considering the mountainous terrain, however, the size of the force needed for complete observation of the 165-mile frontier appears to have been underestimated. UNOGIL faced the additional problem of the hostility of the host government due to the objectivity of its reports. The group's principal contributions to the settlement of the crisis were the moral influence of its presence and impartiality, its role as a symbol of international concern and its efforts to free the Lebanese situation from its external complications.

b. United Nations Presence in Jordan

Background

In the period of Middle Eastern tension which followed the July 14, 1958 coup in Iraq, Jordan submitted a complaint to the Security Council which echoed the earlier charges made by Lebanon. The allegations against the United Arab Republic - including the smuggling of saboteurs and agents into Jordan as well as clandestine supplies of arms and ammunition - added up to what the Jordanian representative called "indirect aggression." With the Security Council frustrated by the Soviet veto, an emergency special session of the General Assembly was convened, and a resolution sponsored by ten Arab delegations was unanimously adopted.

The Issue

The issue was whether there was foreign intervention in the domestic affairs of Jordan in a period of extreme tension in the Middle East.

Terms of Reference and Allegations

The ten-power resolution passed by the General Assembly requested the Secretary-General, "in accordance with the Charter, forthwith to make such practical arrangements as he, in consultation with the Governments concerned, may find would adequately serve to help in upholding the purposes

and principles of the Charter in relation to Lebanon and Jordan in present circumstances . . ." Given this broad mandate, the Secretary-General proceeded to set up a UN Presence in Jordan by appointing a special representative whose task would be "to assist in the implementation of the resolution, specifically with a view to helping in upholding the purposes and principles of the Charter in relation to Jordan . . ." Pier Spinelli was chosen by the Secretary-General for this diplomatic assignment and was authorized to set up a headquarters staff of sixty to one hundred men. The mission was still operating in Jordan as of spring 1964, though with a much reduced staff.

#### Operation and Performance

Despite its open-ended mandate, the UN mission's activities were in fact limited to monitoring broadcasts at the Hashemite radio station in Jerusalem, riding the borders and observing and reporting to the Secretary-General any evidence of foreign intervention.

#### Conclusions

A symbol of UN interest in Jordan, the UN Presence can be said to have had a salutary effect, particularly a psychological one. This was the first such mission, and the approach has been used by the Secretary-General in a number of similar localized political problems since then. Although there is little actual experience with this concept

from which to draw conclusions, it would appear that it has several advantages over the UN representative or multiple commission established by the Security Council and the General Assembly, particularly in its informal, private system of reporting and its staffing by international civil servants.

## 7. The Problem of Laos

### Background

Consultation with Laotian representatives in 1959 revealed the desirability of sending international observers to that troubled area. After considering alternative means of doing so, the Secretary-General was prompted to swift action by an emergency plea from the Laotian Government, alleging aggression from North Vietnam. The observation mission was authorized by the Security Council, over Soviet opposition, on September 7, 1959, with the limited authority "to receive further statements and documents and to conduct such inquiries as it may determine necessary." These terms of reference were interpreted by the President of the Security Council to mean that the Subcommittee could neither seek facts on its own initiative nor make any recommendations. The Subcommittee submitted its report to the Security Council on November 3 with the conclusion that its findings "did not clearly establish" the guilt of the North Vietnamese Government. The Subcommittee thus had done what it could within its limited terms of reference.

A temporary halt in fighting between Pathet Lao guerrillas and Royal Lao Government forces at this time



appeared to have been occasioned by the presence of the UN observers, and thus the potential value of a continuing UN Presence in Laos was recognized at the United Nations. The Secretary-General, after consultations with representatives of various UN members decided to visit Laos and to leave behind a personal representative. Underlying this initiative was a renewed attempt to achieve his three objectives in Laos: neutralization, internal reconciliation and economic development.

#### The Issue

The complex issues in this case arose out of an internal struggle among various factions supported by foreign powers - a conflict bearing the seeds of a major East-West confrontation which would probably endanger international peace and security.

#### Terms of Reference and Composition

The Secretary-General sent three special representatives to Laos: Mr. Sakari Tuomioja, Executive Secretary of the UN Economic Commission for Europe; Roberto M. Heurtematte, UN Commissioner for Technical Assistance; and Dr. Edouard Zellweger, a noted Swiss diplomat and lawyer. Each of these representatives was assigned a successive phase of Mr. Hammarskjold's program of economic and technical assistance

for the country. In addition, they had reporting and advisory functions in the political field.

#### Operation and Performance

Mr. Tuomioja reviewed the country's economic situation and submitted a report to the Secretary-General with recommendations for economic and technical assistance. Mr. Heurtematte translated these recommendations into "action terms." Dr. Zellweger served as coordinator of the activities of the United Nations and its specialized agencies in Laos.

#### Conclusions

The UN Presence coincided with a marked lessening of violence in Laos' civil strife during the last months of 1959 and the first half of 1960. It could serve as a restraining influence when the conflict was primarily domestic, but with the stepped-up foreign intervention later in 1960 this restraint was no longer effective. In this potential cold war battleground the Secretary-General's initiatives ran a greater risk of the withdrawal of confidence by one or more of the major powers, but his efforts were nonetheless important.

## 8. United Nations Presence in Thailand and Cambodia

### f. The 1958-1959 Presence

#### Background

The long-standing rivalry between Cambodia and Thailand, which has been exacerbated by the cold war, was symbolized by the bitter dispute over the temple of Khao Phra Viharn, located in a contested border area. In late 1958, relations between the two countries deteriorated as a result of border incidents and press attacks. Cambodia broke off diplomatic relations, and Thailand countered by sealing off its border with Cambodia. This state of tension led Thailand to ask the Secretary-General to send a representative to inspect its border area.

#### The Issue

Thailand's request for a frontier observer to prevent further border incidents and possible outbreak of hostilities was the nominal issue, but the more important and basic problem was the restoring of peace and confidence in the two neighbors' relations.

#### Terms of Reference and Composition

The Secretary-General designated Ambassador Johan Beck-Friis of Sweden in response to the two governments'

request for a special representative to assist them in efforts to find a solution to the difficulties which had arisen between them. Ambassador Beck-Friis described his terms of reference in these words: "I was not sent here to act as judge or arbitrator. My principal aim has been to help the two governments find a path toward better relations."

#### Operation and Performance

From January 20 to February 23, 1959, the special representative visited the two countries where he engaged in consultations with officials of the two governments and made inspection tours of frontier areas. Arrangements were made for the release of nationals detained by both sides, and diplomatic relations were resumed.

#### Conclusions

This case reveals as "effective and smooth-working," in the Secretary-General's words, the technique of sending a special representative to an area of political tension at the invitation of the parties concerned and after an informal consultation of members of the Security Council. The success of such an approach clearly depends on the co-operation or lack of interest of the two major cold war protagonists and the willingness of the parties to the dispute to have a UN Presence in the area.

b. The 1962-1964 Presence

Background

Despite the marked improvement in Thai-Cambodian relations early in 1959 as a result of the Beck-Friis mission, no progress was subsequently made toward the solution of the two countries' major disputes, in particular their rival claims to the ancient temple of Khao Phra Viharn. Renewed press and radio attacks and exchanges of supposed threats in 1961 led to severance of diplomatic relations and new border tensions. The International Court of Justice's ruling in favor of Cambodia (with which Thailand grudgingly complied) in June 1962 and reciprocal charges of aggression in August brought tensions to a critical point.

The Issue

The difficulties and tensions between Thailand and Cambodia were again the issue before the UN.

Terms of Reference and Composition

The Secretary-General designated Nils G. Gussing of Sweden as his personal representative in response to requests from both governments concerned. Thailand and Cambodia subsequently agreed to the maintenance of the UN Presence in the area during 1963 and again extended the Gussing mission for 1964. Mr. Gussing's terms of reference

were "to place himself at the disposal of the parties to assist them in solving all problems that have arisen or may arise between them."

#### Operation and Performance

During the first phase of his mission (October-December 1962) Mr. Gussing held discussions with high officials of both countries and conducted a number of investigations in the border areas. These activities coincided with a lessening of tension between the two countries. Mr. Gussing's major accomplishment in 1963 was the revival of the 1960 agreement on the mutual cessation of press and radio attacks; the renewed accord included a provision for resort to the good offices of the special representative. The agreement proved short-lived, however.

#### Conclusions

Although there have been few lasting improvements in Thai-Cambodian relations, the Gussing mission has at least helped to prevent them from worsening, no mean accomplishment considering the deep antagonisms between the two countries. It has had a restraining influence on both sides, and its handling of complaints has provided a useful safety-valve for tensions. In addition, the UN Presence has provided the Secretary-General with continuous, on-the-spot observation. In these ways, the Gussing mission has contributed to the immunization of a local conflict from the cold war and its attendant dangers of escalation.

## 9. United Nations Operation in the Congo

### Background

The Congo achieved its independence in June 30, 1960. An insurrection in the Congolese Army immediately followed, resulting in a request by Prime Minister Patrice Lumumba for UN assistance to restore discipline. The Security Council in July and August authorized the Secretary-General to arrange to provide military assistance to the government. In September a domestic conflict arose between Prime Minister Lumumba, supported by the Soviet Union, and President Joseph Kasavubu, supported by the UN Command. When the Soviet Union vetoed Security Council resolutions to restore order, the United States brought the Congo question before a special session of the General Assembly which established a Conciliation Commission to act independently of the UN military force (UNOC). This is the sole phase of the Congo case relevant to peace-observation, the function of UNOC being exclusively peace-keeping.

### The Issue

The General Assembly appealed to all Congolese to solve their internal conflicts by peaceful means with the assistance, as appropriate, of Asian and African representatives

appointed by the Advisory Committee on the Congo in consultation with the Secretary-General for the purposes of conciliation.

Terms of Reference and Composition

The Commission was originally intended to consist of the fifteen African and Asian members of the Secretary-General's Advisory Committee on the Congo. However, four states withdrew their representatives because of the hostility of Kasavubu. The sole term of reference was the Assembly appeal to all Congolese as described in the previous paragraph.

Operation and Performance

The Commission arrived in the Congo on January 3, 1961, and remained there until February 20, 1961. It attempted to interview all factions but met with little cooperation from any of the factions. In its report, completed on March 10, 1961, it recommended a summit meeting of Congolese leaders and made other recommendations concerning military operations, reorganization of the Congolese National Army, foreign interference and other subjects, most of which were carried out in substance at a later date. However, the Commission played no role in their implementation.

The deterioration of the situation after the assassination of Lumumba required emergency action to avoid civil



war. The Security Council authorized the UN to use force in military operations which the Secretary-General characterized as "pacification" rather than peace-observation.

Conclusions

1. The Conciliation Commission phase of the Congo operations, which alone could be characterized as "peace-observation," is relatively unimportant.
2. The experience of the Conciliation Commission shows the inherent difficulty of carrying on a function of conciliation simultaneously with a military operation. UNOC's participation in military operations prevented it from appearing as an impartial arbiter. The image of UNOC, figuratively speaking, rubbed off on the Conciliation Commission.

10. West New Guinea (West Irian), 1962-1963

Background

The western half of the island of New Guinea was governed as part of the Netherlands East Indies prior to the establishment of an independent Indonesia. However, the political status of the territory was not settled by the agreements leading to the independence of Indonesia. Indonesia maintained that West New Guinea was an integral part of its territory while the Netherlands, which continued to administer the territory, supported the right of the inhabitants to determine their own future.

In 1961 the Netherlands announced the desire to end its administration of the territory provided the rights of the Papuan inhabitants - including the right of self-determination - could be protected. Indonesia insisted upon the transfer of the administration to Indonesia, though it was willing to accept the transfer in two steps: first from the Netherlands to the United Nations and then from the UN to Indonesia.

After difficult negotiations, an agreement was reached between the Dutch and the Indonesians on August 15, 1962 for the two-stage transfer of administration to Indonesia during a period ending no earlier than May 1, 1963. (In

fact, the final transfer took place on that date. The UN was requested to assume the administration during the period of the transfer.

#### The Issue

UN missions were to assist in arranging for a cessation of hostilities and thereafter for the peaceful transfer of the administration to Indonesia and for the protection of the rights of the Papuan inhabitants.

#### Terms of Reference and Composition

The agreements between the Netherlands and Indonesia provided for two phases of UN operations:

1. Cessation of hostilities. The agreement requested the Secretary-General of the UN to undertake immediately as extraordinary measures without specific UN authorization the implementation of the cease-fire agreement and a program to permit the rapid installation of a United Nations Temporary Executive Authority (UNTEA) after authorization by the General Assembly. These functions were performed from August 18, 1962, to October 1, 1962, by the Military Adviser to the Secretary-General, assisted by twenty-one military observers provided by six states: Brazil, Ceylon, India, Ireland, Nigeria and Sweden.
2. Transfer of Administration. The Netherlands and Indonesia would request the General Assembly to authorize UNTEA,

under the direction of a UN administrator acceptable to the Netherlands and to Indonesia, to take over control with full authority to administer the territory. UNTEA would have its own military forces to supplement the Papuan police and Indonesian armed forces. It would also supervise the implementation of the elaborate agreed provisions for bringing Papuans into the government to replace Dutch officials and would have continuing functions after the transfer of administration to Indonesia to prepare for ultimate self-determination by the inhabitants. The Dutch and Indonesians would share equally the costs of UNTEA. The General Assembly authorized the establishment of UNTEA, which took over the administration on October 1. The UN administrator relied largely on area personnel to carry on the administration. UNTEA's military personnel consisted of a Pakistani Security Force, numbering approximately 1,500, and of 99 U.S. officers and 12 Canadian officers to man the aircraft furnished for the operation by their respective countries.

#### Operation and Performance

Prior to the establishment of UNTEA the UN military observers arranged, without much difficulty, to assemble the Indonesian infiltrators and repatriate them to Indonesia.

The infiltrators were living in desperate conditions and were only too glad to be relieved. This resulted in the restoration of law and order.

UNTEA succeeded in maintaining order during the period of its administration. Perhaps the Papuans restrained their hostility to the Indonesians because of the fear of consequences after the transfer of the administration to Indonesia.

UNTEA arranged for the replacement of Dutch officials by either Indonesian or Papuan officials and certainly increased the number of Papuan officials in the government. It also managed to provide some badly needed supplies for the country, economic conditions in West New Guinea having deteriorated greatly after the Dutch decided to surrender their administration.

UNTEA had no success in planning a plebiscite though the Secretary-General stated his confidence that the Indonesians would scrupulously observe their agreements.

### Conclusions

The West Irian operations showed that the Secretary-General was capable of transporting an emergency team to a crisis area on forty-eight hours notice. Furthermore, with the agreement of both interested parties, UNTEA was able to take over the administration of the territory from

the Dutch, provide for change in personnel, administer the territory for seven months and transfer the administration to the Indonesians. UNTEA accomplished these tasks with a minimum of violent incidents despite the existence of conditions which frequently cause disorder. Undoubtedly the presence of UN troops prevented clashes which might otherwise have occurred between the Indonesians and the Papuans. All of these accomplishments took place on a tight time schedule.

It is possible, however, that from the long-range standpoint the basic agreement may turn out to be a complete failure. It is doubtful whether the Papuans will have a fair and free chance of determining their political future in the plebiscite to be held by 1969, given the expansionist policy of Indonesia.

## 11. The UN Observation Mission in Yemen

### Background

A palace coup on September 26, 1962, in which the royal government of Imam al-Badr was overthrown by republican insurgents led by Abdullah Sallal, touched off a civil war in the small Arabic Kingdom of Yemen. The United Arab Republic sent troops to support the Sallal regime, which had led the coup but soon proved too weak to control the country. Meanwhile, Saudi Arabia supplied arms and supplies to the royalists. Through the mediation efforts of the United States, the U.A.R. and Saudi Arabia reached a disengagement agreement in April 1963. Since the accord provided for a demilitarized zone and impartial observers, the Secretary-General made the necessary arrangements for an observer group, which he was prepared to organize and dispatch without further delay. The Soviet Union, however, insisted that the Security Council consider the matter, since it is charged with the primary responsibility for the maintenance of international peace and security; the Soviets abstained on the vote which established the mission.

### The Issue

The issue in Yemen was a civil war in which foreign powers were openly intervening and which threatened peace and security in a strategic area.

#### Terms of Reference and Composition

The terms of reference of UNYOM (United Nations Observation Mission in Yemen) were to observe, certify and report on the implementation of the disengagement agreement by the U.A.R. and Saudi Arabia. The observation group was composed of 200 military observers from July 4 to November 4, 1963, with both reconnaissance and air units; the force was later reduced to twenty-five military observers. UNYOM, whose mandate has been renewed every two months and whose costs are met by the U.A.R. and Saudi Arabia, has been headed by Major General Carl C. Von Horn (July-August 1963), Colonel Branko Pavlovic (August-November 1963) and Pier P. Spinelli (November 1963 to the present).<sup>1</sup>

#### Operation and Performance

UNYOM encountered unusual hardships in executing its mission, in particular rugged terrain and meager local supplies and facilities. Aerial and ground observation in the demilitarized buffer zone and points of troop departure revealed that the disengagement agreement was not being implemented by the U.A.R. and Saudi Arabia; in fact, U.A.R. troop replacements at times exceeded departures. UNYOM's limited terms of reference, within which the Secretary-General insisted on keeping the group's activities, and its lack of military power prevented it from enforcing

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<sup>1</sup> This summary was written before the termination of UNYOM on September 4, 1964.



the terms of the agreement. When it became clear that the complex Yemeni situation was primarily political rather than military, the Secretary-General appointed Ambassador Spinelli to the dual role of special representative in Yemen and head of UNYOM. His efforts at mediation and conciliation, combined with those of Algeria and Iraq, appear to have made some progress toward a solution of the problem.

#### Conclusions

Although UNYOM has been given access to the area and has reported periodically on the status of the disengagement undertaking, neither its presence nor its reporting has thus far constituted a sufficiently powerful sanction to secure compliance. Its observation and fact-finding activities have been effectively performed, and its presence appears to have contributed to the breaking off of direct confrontation of Saudi Arabian and U.A.R. military power. The military stalemate has led to a new approach, which emphasized mediation and conciliation and an expansion of UNYOM's terms of reference, which is more feasible than its transformation into a military police force. The observer group's dependence on two-month extensions and on the continued willingness of the contending parties to finance the operation has led to considerable uncertainty and raises questions about the financing of similar undertakings in the future.

12. The Problem of Cyprus, 1964<sup>1</sup>

Background

The island of Cyprus, a British Crown colony until its independence in 1960, has been torn by the conflict between its Greek majority and Turkish minority, particularly over the country's constitution. In the wake of the violence of December 21, 1963, several efforts toward a solution of the problem were undertaken. A good offices conference was held by the Governments of Great Britain, Greece and Turkey. A UN representative (Lt. General P.S. Gyani) was appointed by the Secretary-General to observe the progress of the cease-fire in Cyprus. The United States and Great Britain made several proposals for augmenting the British peace-keeping force on the island with contingents from other NATO countries. With renewed violence and tension on the island, the Security Council took up the question and passed unanimously a compromise resolution - worked out by the Secretary-General and proposed by five non-permanent members - which established a UN peace-keeping force under the Secretary-General and requested him to appoint a mediator.

The Issue

Cyprus is another example of a civil war with consider-

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The case study on The Problem of Cyprus (see Appendix III, pp. 523-568) covers events from December 27, 1963 when the case was considered in the Security Council to the middle of June 1964.

able foreign involvement - in this case, Greece supporting the Greek Cypriots, Turkey aiding the Turkish Cypriots, the British maintaining their security interests and the Soviet Union supporting the Greek Cypriots for its own purposes - and the attendant danger of an international conflagration.

Terms of Reference and Composition

The terms of reference of the United Nations Peace-Keeping Force in Cyprus (UNFICYP) were "to use its best efforts to prevent a recurrence of fighting and, as necessary, to contribute to the maintenance and restoration of law and order and a return to normal conditions." The UN force was instructed to avoid any action designed to influence the political situation in Cyprus except through helping to restore quiet and creating an improved climate for political solutions. The composition and size of the force was to be determined by the Secretary-General in consultation with the Governments of Cyprus, Greece, Turkey and the United Kingdom; the commander of the force was to be appointed by and responsible to the Secretary-General, who in turn was to be responsible to the Security Council.

Pursuant to the Security Council resolution, the Secretary-General appointed Sakari S. Tuomioja, Finnish ambassador to Sweden, as mediator.

### Operation and Performance

The Secretary-General encountered considerable difficulties in organizing and financing UNFICYP. He was eventually able to secure commitments for a total of 6,450 troops (a total which fell short of the Secretary-General's estimated minimum of 7,000 and General Gyani's figure of 10,000) from the United Kingdom, Canada, Finland, Ireland, Sweden and Austria. As of April 1, 1964, the full contingents had not yet arrived, and only \$5 million in voluntary contributions (including pledges of \$2 million from the United States and \$1 million from Great Britain) toward the estimated \$6 million required for UNFICYP's three-month mandate had been pledged. The Secretary-General also had some difficulty in finding a mediator who would be satisfactory to both parties, before finally appointing Ambassador Tuomioja.

### Conclusions

The fourth peace-keeping operation in UN history, UNFICYP represents a number of "firsts" in this category of UN experience: Cyprus is the first instance in which a permanent member of the Security Council (Great Britain) has supplied forces to a peace-keeping instrumentality. It was the first time that the five permanent members voted

unanimously to set up the force. It was the first time that a resolution setting up a peace-keeping force also provided for the appointment of a mediator. It was the first time that a UN instrumentality intervened in a crisis to bring about a new constitutional arrangement between two hostile parties in a civil war. The difficulties encountered in organizing and financing UNFICYP suggest that advance planning and financial arrangements should be made for peace-keeping and peace-observation instrumentalities.

UN Cases Where Peace Observation Was Requested or Authorized  
But Never Fully Implemented

1. The Corfu Channel Case

Background

On October 22, 1946, two British destroyers were damaged by mines in the Corfu Channel, an international waterway, and forty-four lives were lost.

The Issue

The British claimed that the mines were part of a minefield laid by the Albanian Government and brought the matter before the Security Council.

Terms of Reference and Composition

The Security Council set up a Subcommittee of three of its members to sift the evidence and report on the facts.

Operation and Performance

The Subcommittee held ten meetings but reached a consensus only on the fact of damage. The U.S.S.R. vetoed a British resolution to establish Albanian responsibility. The Security Council then recommended that the parties refer the matter to the International Court of Justice. The U.K. followed this recommendation. After some protests concerning the jurisdiction of the Court, Albania ultimately accepted the Court award.

Conclusion

This case is of little importance from the standpoint of peace-observation. The attempt to use peace-observation procedures failed because of the indecisiveness of the Subcommittee's report and the Soviet veto of a resolution based on the report.

## 2. The Independence of Czechoslovakia

### Background

In February 1948, a government under complete Communist domination, with Soviet complicity, seized power in Czechoslovakia.

### The Issue

An investigation was requested in the Security Council to determine whether the Communist coup endangered international peace. Since any substantive resolution would be vetoed by the Soviet Union, the request was for a subcommittee to examine evidence in New York. Many of the members of the Security Council contended the resolution was procedural, but the Soviet Union used the so-called double veto to prevent Security Council action.

### Terms of Reference and Organization

None.

### Operation and Performance

None.

### Conclusions

1. This is an early and unsuccessful attempt to obtain a Security Council investigation of the overthrow of a government.
2. This case was the first application of a procedural mechanism - the double veto - to prevent the adoption of a



proposal claimed by some Security Council members to be procedural. At a later time, the same mechanism under different circumstances was used to prevent attempted vetoes of proposals also claimed to be procedural.

3. This case has little significance for peace-observation.

### 3. Chinese Nationalist Charges of Soviet Treaty Violations

#### Background

The representative of China in 1949 charged that the Soviet Government was aiding the Communists and thus frustrating all efforts of his government to reestablish its authority in Manchuria.

#### The Issue

China called on the General Assembly to investigate the charges.

#### Terms of Reference

The General Assembly in 1949 authorized the Interim Committee to consider the matter. The Interim Committee requested further instructions from the General Assembly in 1950, and in 1952 China again brought the matter before the General Assembly.

#### Operations and Performance

In 1952 China presented a large mass of material to the General Assembly and introduced a resolution stating that the U.S.S.R. had violated the 1945 Treaty of Friendship and Alliance with China. Despite the hostility of the entire Free World to the U.S.S.R. as a result of the Korea hostilities, the condemnation resolution passed by a vote of only 25 to 9 with 24 abstentions.

Conclusion

By 1952, two years after the Chinese Communist regime had established its authority over mainland China and had driven the Nationalist government off the mainland, there was little disposition on the part of the General Assembly to do any more than condemn the violation of the 1945 Treaty of Friendship and Alliance. The resolution was adopted by a majority of one.

#### 4. Cases Involving Racial Conflict in South Africa

##### Background

The population of South Africa today consists of some three million Europeans, or "whites," and some eleven million whom the South Africans consider "colored." This majority includes a large number of persons of Indian or Pakistani origin. In 1914, 1927 and 1932 agreements between India and South Africa provided for the abrogation of restrictive anti-Indian legislation. However, in 1946 racial discrimination directed against all non-whites began to increase. When the Nationalist Party came into power, it initiated and developed the policy of apartheid (racial separation) which it has applied through legislation and administration in every sphere of national life and activity.

##### The Issue

The issue in both the "Treatment of Indians and Pakistanis" case and the "Apartheid" case is the racial policies and practices of South Africa. The Indians and Pakistanis have requested the UN to prevent the application of South African policies to South Africans of Indian or Pakistani origin. In the apartheid case the UN is requested to take action in behalf of the entire colored population of South Africa. In 1962 the General Assembly began to consider the two cases simultaneously in order to provide for unified UN action.

Composition and Terms of Reference

The "Indians" case first came before the General Assembly in 1946; the "Apartheid" case in 1952. At first, the General Assembly went no farther than to call upon South Africa to bring its legislation in line with its international obligations. In 1952, however, the General Assembly established, in connection with the "Indians" case, a Good Offices Commission to assist in negotiations between the South Africans and the Indians and Pakistanis to obtain a satisfactory solution. The Good Offices Commission consisted of representatives of Cuba, Syria and Yugoslavia. When South Africa declined to cooperate with the Good Offices Commission, the General Assembly in 1955 named a distinguished Brazilian official to assist in negotiations. South Africa, however, declined to cooperate with him.

In the "Apartheid" case, the United Nations appointed a Commission of three individuals to make an on-the-spot investigation of the racial situation. When South Africa declined to permit the Commission to come into its territories, the Commission secured its information from other sources.

In November 1962 the General Assembly appointed a Special Committee of eleven states to keep South Africa's racial policies under review. The eleven states were Algeria, Costa Rica, Malaya, Ghana, Guinea, Haiti, Hungary, Nepal, Nigeria, the Philippines and Somalia. This Committee likewise has

not been in a position to make an on-the-spot investigation.

The Security Council has, however, considered its reports and has set up two groups to consider possible UN action, including sanctions.

Operation and Performance

There has been no on-the-spot peace-observation in the South African cases, since South Africa has refused to cooperate with any of the committees or commissions enumerated above. However, both the Apartheid Commission and the Special Committee have obtained the required information from sources outside South Africa and have filed voluminous reports with recommendations for drastic action - possibly more drastic than if the South Africans had permitted on-the-spot investigation.

The South African refusal to cooperate has invariably been on the legal ground that the matters are within the domestic jurisdiction of South Africa and therefore that the UN under the Charter is not competent to consider them. The General Assembly has acted on the ground that the racial policies of South Africa endanger international peace and in the "Indians" case on the additional ground that the position of Indians is regulated by international agreements and therefore cannot be deemed within the domestic jurisdiction

of South Africa.

The change in the composition of the UN through the admission of the new African states has resulted in pressure for increasingly drastic measures to solve the problem.

#### Conclusions

From the standpoint of peace-observation, these cases are examples of the consequences of a long course of refusal by a state (not a great power) to cooperate with the UN in carrying out its function of maintaining world peace. Despite the refusal of South Africa to permit the entry of UN missions into its territory, the UN was nonetheless in a position to make adverse findings and to take action which has virtually isolated South Africa from the world community.

## 5. South West Africa

### Background

After World War I, the former German colony of South West Africa was administered by the Union of South Africa under a League of Nations mandate. Since World War II and the disbanding of the League the South African Government has consistently declined to negotiate an agreement with the UN to place the territory under the UN trusteeship system. The International Court of Justice in 1949 gave a legal opinion, later accepted by the General Assembly, that South Africa continued to hold the territory as a mandate with the UN exercising the supervisory functions formerly assigned to the League of Nations. The UN set up a number of committees which strove without success to negotiate with South Africa to implement the Court decision. In the meantime, the relationships between South Africa and the other African and Asian states were becoming increasingly strained, and by 1961 the entire situation (of which the South West Africa problem was only one aspect) was affecting international peace.

Problems relating to peace-observation first arose when the General Assembly decided in 1961 to establish a Special Committee with its first objective to visit the territory. Its remaining objectives were substantive: repeal of



all discriminatory laws, evacuation of South African military forces, etc. All of the substantive objectives were objectionable to the South African Government.

#### The Issue

For the purposes of this Study, the issue is limited to a consideration of the visit of the chairman and vice chairman of the Committee to Pretoria and South West Africa.

#### Terms of Reference and Composition

The South African Government, while objecting to all the objectives stated in the General Assembly resolution, wished to find a solution to the impasse and therefore invited the chairman and vice-chairman of the Committee (not, however, the entire Committee) to visit Pretoria and South West Africa.

#### Operation and Performance

The visit, the first on-the-spot observation in the territory, took place in May 1962 and lasted nine days. Even though the visitors were accompanied everywhere by the South African officials, nevertheless they were able to establish through private discussions the presence of much dissatisfaction with the South African regime and even the wish of many that the UN immediately take over the administration of the territory.

Their report pointed out the absence of South African plans to develop the territory, the overwhelming desire of

the non-white population for UN administration, and the impossibility of implementing the General Assembly resolutions except through use of force. An unfortunate wrangle between the chairman and vice-chairman over the contents of a joint communique issued by them and the South African Government at the end of the visit marred the mission.

#### Conclusions

The UN observation in this case was not technically peace-observation since there had been neither violence nor threat of violence, but it was essentially a fact-finding mission. The Committee was acting pursuant to UN Charter provisions relating to non-self-governing territories (mandates) not maintenance of international peace. Nevertheless the entire problem of apartheid in South Africa - of which the South West African problem is merely a segment - is closely related to the maintenance of international peace.

The presence of the UN officials stimulated private discussions with them and enabled them to file a useful report on conditions in the territory. The success of the UN mission in eliciting information, though seriously curtailed in its movements by the host government, illustrates that even a small UN operation can be useful in a tense international situation.

6. UN Committee to Investigate Free Elections in Germany

Background

The General Assembly in December 1951 was requested to establish a Committee to make simultaneous investigations in West Germany, East Germany and Berlin to determine whether conditions in those areas would make possible the holding of free elections.

The Issue

As stated above.

Terms of Reference and Composition

The Commission consisted of representatives of Brazil, Iceland, Netherlands, Pakistan and Poland. The Poles declined to serve.

Operation and Performance

The Committee set up headquarters in Geneva in February 1952. However, East Germany failed to reply to letters requesting access. Since, under its terms of reference, the investigation had to take place simultaneously in all three areas, the Committee could not function.

Conclusion

Peace-observation and fact-finding are not likely to succeed when applied to major issues of East-West confrontation without the consent of both parties.

## 7. Bacteriological Warfare in Korea, 1952-1953

### Background

The U.S.S.R. in 1952 was promoting a widespread campaign claiming that the UN forces, and the U.S. in particular, were waging bacteriological warfare against Korea. In September 1952 the U.S.S.R. filed in the UN a document containing so-called confessions of U.S. fliers on the use of bacteriological warfare.

### The Issue

The U.S. thereupon requested the General Assembly to establish a five-member Commission to investigate and report on the charges.

### Terms of Reference and Composition

The Commission, consisting of Brazil, Pakistan, Egypt, Sweden and Uruguay, was to have full access to North and South Korea, the mainland of China and Japan to perform its tasks.

### Operation and Performance

The General Assembly approved the resolution in April 1953, and the United States, Japan and South Korea immediately consented to give the Commission access to their territories. Since no reply was received from North Korea or Communist China, the Commission was never organized.

Conclusion

The Western tactics in connection with General Assembly consideration of this problem facilitated the disclosure in the General Assembly later in 1953 of the methods of coercion and torture used by the Communists to obtain "confessions" from captured U.S. fliers. The failure of the Communists to cooperate prevented any peace-observation.

8. Request of Thailand for Dispatch of Observers by  
the Peace Observation Commission

Background

In May 1954 Thailand brought to the attention of the Security Council disquieting activities in the war being fought in Laos, Cambodia and Vietnam near the borders of Thailand.

The Issue

Vietnam proposed that the Security Council request the Peace Observation Commission to establish a subcommission of three to five members with authority to send observers to Thailand and report to the Security Council. The Soviet Union vetoed the resolution. While Thailand considered bringing the matter to the General Assembly, it never took such action.

Terms of Reference and Composition

None.

Operation and Performance

None.

Conclusions

The Soviet veto may have contributed to the decision to establish the International Control Commission in the area carrying on peace-observation functions independent of the UN. This, however, was probably only one of several factors leading to this result.

## 9. The Hungarian Question. 1956-1963

### Background

The Hungarian revolution of 1956 was touched off in Budapest on October 23 when peaceful demonstrations of students, workers and soldiers erupted in violence. The insurgents gathered momentum and waged a largely successful battle against Soviet tanks and the Hungarian security police until October 28, when Imre Nagy's revolutionary government ordered a cease-fire. A second massive Soviet intervention on November 1 led to several appeals by Prime Minister Nagy to the Secretary-General for UN assistance. On November 4 the Soviet troops completed their occupation of the country, ousted the Nagy government, and set up a puppet regime headed by Janos Kadar.

### The Issue

The issue revolved around the intervention of the U.S.S.R. through the use of armed force and other means in the internal affairs of Hungary and the continued use of repressive measures to deny to the Hungarian people their right to a freely-elected government which represented their national aspirations.

### Terms of Reference and Composition

Three United Nations instrumentalities dealt with the Hungarian situation: (1) a three-man observer group (Judge

Oscar Gundersen of Norway, Mr. Arthur Lall of India, and Dr. Alberto Lleras of Colombia) appointed by the Secretary-General with the authorization of the General Assembly; (2) the Special Committee on the Problem of Hungary, established by the General Assembly and composed of the representatives of Australia, Ceylon, Denmark, Tunisia and Uruguay; and the UN Special Representatives on the Question of Hungary, H.R.H. Prince Wan Waithayakon of Thailand (1957-58) and Sir Leslie Munroe of New Zealand (1958-62), appointed by the General Assembly.

The observer group's terms of reference were defined by the General Assembly's authorization of the Secretary-General "to investigate the situation caused by foreign intervention in Hungary, to observe the situation directly through representatives named by him, and to report thereon to the General Assembly at the earliest moment." The Special Committee was instructed to provide the General Assembly and all UN members with "the fullest and best available information" on the situation in Hungary and developments relating to General Assembly recommendations; the Committee was requested "to investigate, to establish and maintain direct observation in Hungary and elsewhere, taking testimony, collecting evidence and receiving information. . . ." Prince Wan was instructed "to take such steps as he deems appropriate . . . to achieve the objectives of the United Nations, . . .



to consult as appropriate with the Special Committee, . . . and to report and make recommendations as he may deem advisable to the General Assembly." Sir Leslie was appointed to report to member states or the General Assembly on significant developments relating to the implementation of Assembly resolutions.

#### Operation and Performance

The efforts of all three instrumentalities were stymied by the complete refusal of the Soviet Union and its Hungarian client regime to cooperate in any way; their inability to gain access to Hungary for direct observation was particularly damaging. The most successful in overcoming these obstacles was the Special Committee, which conducted an exhaustive investigation and issued a 148-page report which remains the most authoritative account of events in Hungary. In addition to receiving voluminous documentary material and reports, the Special Committee heard 111 witnesses whose testimony totaled 2,000 pages of verbatim records. The Special Representatives issued annual reports from 1957 to 1962 which noted a gradual improvement in some aspects of the situation in Hungary.

#### Conclusions

In a direct East-West issue the United Nations proved ineffectual when a small country, backed by one of the two major cold war protagonists, refused to cooperate with the

organization. The resort to military sanctions would have led to a Korea-type action in which the danger of escalation to general war would have been great. The simultaneous occurrence of the Suez crisis made it even more difficult for the United Nations to deal effectively with the Hungarian situation. The reports issued by the various instrumentalities were unable to alter the situation, although they did serve to rebut spurious charges against the West by the Soviets. In addition, they constituted an international verdict against the Soviet Union and moral sanction which might help to deter the Soviets from similar actions in the future.

10. United Nations Subcommittee on the  
Situation in Angola, 1962

Background

The long-smoldering rebellion in the Portuguese colony of Angola erupted in violence during the early months of 1961. The incidents of the week of February 4-11 prompted Liberia to bring the situation before the Security Council, but a three-power draft resolution establishing a subcommittee failed of adoption. Renewed fighting on a larger scale began in mid-March and led forty UN members to place "The Situation in Angola" on the General Assembly's agenda. Thirty-six Afro-Asian states sponsored a draft resolution which was identical with the three-power draft in the Security Council. This resolution was adopted on April 20 by a roll-call vote of 73 to 2 with 9 abstentions, and on March 22 the President of the General Assembly nominated the members of the Subcommittee on the Situation in Angola.

The Issue

A rebellion against an intransigent colonial power was the point at issue, and the event was seized by the anti-colonial majority in the UN to advance its cause on the ground that the continuance of disturbances in Angola was likely to endanger the maintenance of international peace and security.

Terms of Reference and Composition

Representatives of Bolivia, Dahomey, the Federation of Malaya, Finland and the Sudan formed the Subcommittee. Carlos Salamañca (Bolivia) was elected chairman, and Ralph Enckell (Finland) became vice-chairman. The Subcommittee's basic terms of reference were "to examine the statements made before the Assembly concerning Angola, to receive further statements and documents, to conduct such inquiries as it may deem necessary and to report to the Assembly as soon as possible." When the Subcommittee's mandate was renewed by the General Assembly early in 1962 it was given the additional task of studying "ways and means to secure implementation of the present resolution and to report thereon to the Security Council and to the General Assembly."

Operation and Performance

The Subcommittee's repeated efforts to obtain Portugal's permission for a visit to Angola met with failure, although Mr. Salamañca, the chairman, did visit Lisbon where he was given the official Portuguese version of events in Angola. Thwarted in its efforts to obtain first-hand information, the Subcommittee made two visits (1961 and 1962) to the Congo (Leopoldville) in order to gather information from Angolan groups and refugees. Statements and testimony gathered there, as well as information received from the Government of Portugal, specialized agencies of the United Nations, non-

governmental organizations and individuals with first-hand information, formed the basis of the Subcommittee's two reports.

#### Conclusions

Portugal's refusal to cooperate with the Subcommittee was inevitable from the outset due to its anti-colonial genesis. The Subcommittee's investigative activities were thus hampered by its inability to undertake on-the-spot observation. Despite this and other obstacles, the broad outline of events in Angola emerges from the Subcommittee's reports, and its conclusions did serve to refute the various Portuguese assertions and charges, such as the allegation of foreign and Communist origins of the rebellion. They also called attention - both in 1961 and 1962 - to the deteriorating situation in the territory and thus effectively rebutted Portugal's claim to have put down the revolt completely. Although Portugal was not swayed from its repressive policies by the UN instrumentality, its refusal to cooperate with the Subcommittee resulted in its further isolation from the rest of the world community.

## 11. Violations of Human Rights in South Vietnam, 1963

### Background

Popular discontent with the authoritarian Diem regime of South Vietnam burst to the surface in May and June of 1963 with Buddhist protests against alleged discrimination and repression. The self-immolations of Buddhist monks and Buddhist appeals to the Secretary-General of the United Nations to intervene aroused worldwide concern, particularly among the Afro-Asian countries in the United Nations.

At the request of fifteen of these countries, the Eighteenth (1963) Session of the General Assembly took up the question of "violation of human rights [specifically, religious freedom as defined in Article 18 of the Universal Declaration of Human Rights] in South Vietnam." The Government of South Vietnam responded by inviting "representatives of several member states to visit Viet-Nam in the very near future" to see for themselves what the situation was. It was agreed to suspend debate pending the report of such a mission.

### The Issue

The issue was whether the Government of South Vietnam was suppressing the religious freedom of its Buddhist subjects.

### Composition and Terms of Reference

The President of the General Assembly appointed a fact-finding group composed of representatives of Afghanistan, Brazil, Ceylon, Costa Rica, Dahomey, Morocco and Nepal. In the main these were individuals who had exhibited an interest in human rights in their UN activity. Two members of the Secretariat Division of Human Rights accompanied the group.

In the absence of a General Assembly resolution, the mission defined its own terms of reference as to ascertain on the spot "the facts . . . as regards the alleged violations of human rights by the Government of the Republic of Viet-Nam in its relations with the Buddhist community of that country" by collecting information, hearing witnesses and receiving petitions.

### Operation and Performance

The mission spent one and a half weeks in South Vietnam receiving communications and interviewing witnesses. It produced a 254-page report, of which over half consists of the verbatim record of testimony. It offered no conclusions or recommendations, however, because its work was overtaken by the overthrow of the Diem regime on November 1, 1963, which appeared to remove the grievances. The General Assembly decided on December 13 that in light of this development no further discussion or action by the General Assembly was required.

Conclusions

An assessment of the mission's work is not possible, since it was left uncompleted. It is significant, however, that this is the first instance in which a state accused of violating human rights permitted and indeed invited on-the-spot investigation.



Peace-Observation Cases Handled Through  
Multinational Arrangements

1. Aggression against Burma by the Republic of China

Background

At the time of the Communist victory in China, some 1,700 Chinese Nationalist troops crossed the border into northern Burma. The Burmese Government contended that as a result of assistance from Formosa, the force had risen to about 12,000 and controlled an area in Burma.

The Issue

The Burmese Government in 1953 asked the General Assembly to condemn the Chinese Nationalist Government for an act of aggression. The Chinese UN representative admitted the presence of the troops but denied any connection between the forces and his government.

Terms of Reference and Composition

The General Assembly deplored the presence of the troops and recommended their evacuation but set up no machinery to accomplish or observe this result. The General Assembly further recommended that the negotiations now in progress among certain member states be pursued in order to obtain the evacuation.

In May 1953, a Joint Military Committee was formed of the U.S., Thailand, Burma and Nationalist China to discuss means and procedures for the evacuation. The personnel of the committee consisted of military officers of the four countries.

#### Operation and Performance

After some delays and Burmese withdrawal from the Joint Military Committee, the evacuation commenced in the late fall of 1953 and was completed in July 1954. The Joint Military Committee performed a variety of functions in facilitating the evacuation such as arranging for a cease-fire in the evacuation area, arranging practical details of the evacuation such as an air lift, furnishing of food and shelter, etc.

#### Conclusion

1. This is the sole instance of peace-observation by a committee established by voluntary agreement to achieve a UN approved objective.
2. The improvised arrangements were efficient and were without cost to the UN. However, the Joint Military Committee could not conceivably be deemed neutral or unbiased.
3. The Joint Military Committee was successful primarily because its task was relatively simple and the need to remove the Chinese troops was compelling. It also recognized that the presence of these troops could very well

act as a magnet drawing the Chinese Communist forces into Burma to do the job, a prospect which the U.S., Thailand and others sought to avoid.

2. Peace Observation in Indochina Through Three  
International Control Commissions, 1954-

a. Peace Observation in Laos

Background

Laos is the least populated and the poorest of the countries of Indochina, but with Communist China on the north and Communist North Vietnam on the east, it is a key to the peninsula for the Communists, since it would give direct access to Thailand and Cambodia and outflank South Vietnam. Dien Bien Phu lies just beyond the border of Laos in North Vietnam but between the arms of the two northern provinces of Laos. At Geneva in 1954 these provinces were set aside for concentration of the Communist Pathet Lao "pending a political settlement."

No progress was made on such a settlement until August 1956 when the neutralist Prince Souvanna Phouma reached agreement with his half-brother, the Communist Prince Souvanouvong, that the Pathet Lao was to be integrated into the Royal Army and a Communist Party allowed to exist. The Pathet Lao did not give up all its arms, and this provided the seeds of future trouble. However, with the integration of these troops, the International Commission for Supervision and Control (ICC) under pressure of its Canadian member voted to adjourn its work in July 1958.

### The Issue

The broad issue was whether French sovereignty could be peaceably transferred to the Laotians. An International Control Commission (ICC) was established by a multinational conference at Geneva in 1954 to oversee this transfer. The narrow issue was whether a "troika" organization of a peace-observation commission - India, Canada and Poland - could effectively supervise the Geneva Agreement on the Cessation of Hostilities.

### Terms of Reference

The task of the ICC was to supervise and control the execution of the Agreement on the Cessation of Hostilities, including the withdrawal of foreign forces, release of war prisoners and civilian internees, supervision of the ban on foreign military personnel and war material, and the rotation of permitted French Union forces and supplies.

### Operation and Performance

The ICC was late in arriving and handicapped by lack of personnel and transport. Radio communication was supplied by the Indian Army. Financing was arranged as follows:

1. Pay and allowances of delegation personnel, paid by the supervisory powers.
2. Common pool expenses (food, lodging, medical supplies and transport in Laos) paid by China, France, the U.K. and the U.S.S.R. in equal shares.

3. Local expenses (scheduled transport, etc.) paid by Democratic Republic of Vietnam and France equally.

Immediate military problems such as the cease-fire, disengagement and withdrawal were fairly well-handled; exchange of prisoners was accomplished with some dispute. But continuing military observation regarding such matters as the prohibition on introducing fresh troops did not receive the cooperation of the parties. The ICC, though unable to promote a political settlement, did keep the Communists and non-Communists in communication with each other.

#### Conclusions

For the period 1954-1958 the "troika" ICC was effective in various degrees depending on the subject. After that time it was generally ineffective, even after its powers were broadened by the Laotian Conference of 1961-62.

b. Peace Observation in Cambodia

Background

The ICC task in Cambodia was very different from that in Vietnam and Laos. Cambodia had not been partitioned, and there were fewer combatants. The KRF (Cambodian Resistance) was practically demobilized before the ICC got to Cambodia. The colorful personality of King (later Prince) Norodom Sihanouk played an important part in both the struggle for independence and the later struggle for neutrality.

The Issue

The broad issue was whether the last remnants of French sovereignty could be transferred peacefully to Cambodia. The narrow issue was whether a "troika" type of peace-observation mission could work in Cambodia.

Terms of Reference

The Commission was to supervise and control the execution of the Geneva Agreement on the Cessation of Hostilities and in particular to control the withdrawal of foreign forces, the release of war prisoners and civilian internees, and regulate at ports, airfields and frontiers the introduction of military personnel and war materials.

Operation and Performance

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Operation and Performance

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getting the few thousand Vietnamese soldiers out of Cambodia. By the end of 1954 nearly all the military problems were settled satisfactorily.

In an effort to implement the provision that former KRF members should have the same rights as all citizens, the ICC was studying King Sihanouk's proposed electoral reforms when he suddenly abdicated in June 1955. General elections were held in September, unobtrusively observed by the ICC, with Prince Norodom achieving a clean sweep of all seats and eighty-three per cent of the popular vote. He then accepted U.S. military aid which the ICC was able to check.

Violations of Cambodian territory by Vietnam and Thailand had been going on for centuries, but they seemed to increase in 1955. The Royal Government complained to the ICC. This produced a split in the ICC, the Indian and Polish members voting that the ICC had jurisdiction and the Canadian member voting that it did not.

The Canadian member's constant efforts to terminate the ICC were not successful.

### Conclusions

This "troika" peace-observation mission in Cambodia worked reasonably well, even concerning political subjects. The apparent reason was that there were practically no Communists there and no conflict with nearby Communist states.

c. Peace Observation in Vietnam

Background

With Japanese support, the Emperor Bao Dai proclaimed the independence of Vietnam in May 1945, but Ho Chi Minh, who had been leading the native combat forces of the north, proclaimed his "Democratic" Republic of Vietnam. Bao Dai served Ho Chi Minh for a while, then moved off to permanent exile while Ho fought the returning French.

Ngo Dinh Diem would not cooperate with Ho, though offered a post in the government. Diem was in exile from 1950 to 1954, part of that time in the U.S. where he created a favorable impression on certain Senatorial leaders. With the fall of Dien Bien Phu in May 1954, Bao Dai offered Diem the premiership and Diem accepted. His task was then to consolidate his power - a task congenial to his authoritarian spirit.

The Issue

The broad issue was whether French sovereignty could be transferred to a single state of Vietnam. The narrow issue was whether the "troika" of ICC could effectively supervise the Geneva Agreement on the Cessation of Hostilities in Vietnam.

Terms of Reference

The terms of reference were to supervise and control

the execution of the Agreement on the Cessation of Hostilities in Vietnam, including control of the movement by the armed forces of the two parties, supervision of the demarcation line, and regulation of introduction into the country of armed forces, military personnel and war materials.

#### Operation and Performance

Three hundred days were allowed for withdrawal of hostile forces, after which the ICC took up other longer range tasks. The ICC was delayed in getting started, and therefore the cease-fire was largely unobserved. Nevertheless, the orders were obeyed. The regroupment plan involved large numbers, but it was completed ahead of schedule. Transfer of civil administration in Hanoi was difficult but handled well. The exchange of prisoners was effectively carried out. Movement of civil population was an enormous problem, one million moving from north to south. Altogether, this was well accomplished.

The accomplishments after the initial 300 days related more to the political tasks, such as the ban on introduction of fresh troops and war materiel, and a general election to unify the country. The job was complicated by the statement of the Government of South Vietnam that it was not bound by the Geneva Agreement but would cooperate with the ICC. However, it did not grant free access to the ICC nor give notice

of equipment and personnel coming from the U.S. The Communist government in the north agreed to provide access but always found an excuse to prevent undesired inspection.

Conclusion

From 1954 to 1955 performance of the ICA was generally good. From 1955 to 1959 it was poor. After 1959 when Ho Chi Minh stepped up his subversion attempts, the situation grew progressively worse, ending with a deadlock between the Indian and Canadian Commissioners on one side and the Pole on the other. Here the matter has stood since June 1962.

### 3. Peace Observation and Fact Finding and the Antarctic Treaty Analogy

#### Background

During the International Geophysical Year, an extraordinary venture in international scientific cooperation, American officials and scientists sought a way to preserve and further the spirit and methods of cooperation engendered by the IGY. At the invitation of the American Government, a twelve-nation conference concluded the thirty-year Antarctic Treaty. This accord in effect froze the legal status quo in Antarctica for its duration, barring such political considerations as territorial claims, and ensured that the continent's exploitation would be for peaceful purposes only.

#### The Issue

The question was how to promote the objectives and ensure the observance of the treaty.

#### Terms of Reference and Composition

Article VII of the Antarctic Treaty deals with observation and inspection, providing that (1) each signatory has the right to designate observers for inspection purposes; (2) each observer shall have complete freedom of access in Antarctica; (3) all areas of Antarctica, including ships, aircraft, and stations, shall be open to inspection at all times; (4) aerial observation may be carried out at any time

over any or all areas of Antarctica; and (5) each signatory shall inform the others of its expeditions, stations, and military personnel or equipment in Antarctica. Unlike the international or multinational composition of most peace-observation instrumentalities, the observation teams envisaged by the Antarctic Treaty are to be unilateral national contingents.

#### Operation and Performance

The first American team set up under Article VII conducted an inspection mission in Antarctica during the 1963-64 austral summer season (November-March). Since there was no crisis in the area nor any suspicion of violation, the State Department's project appears to have been motivated by a combination of factors: an implicit commitment to the Senate Foreign Relations Committee by a State Department official; a desire to establish a precedent by conducting an inspection in a non-crisis situation; and a desire to convince the Senate that the nuclear test-ban treaty then before it did not mark a softening of American vigilance. A carefully selected and briefed nine-man team inspected the Antarctic stations of Argentina, Chile, France, New Zealand, the United Kingdom and the Soviet Union. Access was freely granted to all facilities and equipment, and the observers found no evidence of military activities, nuclear explosions, or the dis-

posal of radioactive waste material.

### Conclusions

In evaluating the more general relevance of the Antarctic Treaty experiment, it should be kept in mind that it represents the demilitarization of a remote unpopulated continent in which the major powers have no security or strategic interests. The observation and inspection problems would be rather more complex in a program for general and complete disarmament, in which the central issues of international politics would be involved. However, the concept of "adversary" or unilateral national observation and inspection, which has been incorporated in some United States arms proposals, should not be ruled out as a possibility in the future. Indeed "adversary" peace-observation in the United Nations framework might be suitable in certain situations. On the positive side, it is to be hoped that the unprecedented degree of governmental cooperation represented by the Antarctic Treaty will spill over into other areas. Also, the wide-ranging commitment of prior consent to untrammelled access and inspection by the signatories of this treaty should provide a useful precedent for peace-observation in general.